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**COLE SCHOTZ P.C.**  
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Attorneys for Proposed Intervenor, Holy Name Medical Center, Inc.

MICHAEL AKERMAN, GEORGINA B. ASANTE, YAW ASANTE, DANIEL BELLIN, RENA DONIN SCHLUSSEL, YARON HIRSCHKORN, RACHEL KAYE, ASHIRA LOIKE, MERYL MARK, JOSEPH MARK, ALAN RUBINSTEIN, DAVID SCHLUSSEL, MARC SCHLUSSEL, and SHORANA SCHLUSSEL,

Plaintiffs,

v.

TOWNSHIP OF TEANECK and  
TOWNSHIP OF TEANECK PLANNING  
BOARD,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY  
DOCKET NO. BER-L-4361-22

Civil Action

**NOTICE OF MOTION TO INTERVENE**

TO: Robert F. Simon, Esq.  
Herold Law P.A.  
25 Independence Boulevard  
Warren, New Jersey 07059  
*Attorneys for Plaintiffs*

Christos J. Diktas, Esq.  
Diktas Gillen P.C.  
596 Anderson Avenue, Suite 301  
Cliffside Park, New Jersey 07010  
*Attorneys for Defendant, Township of Teaneck*

Kevin P. Kelly, Esq.  
Kelly, Kelly, Marotta & Tuchman, LLC  
25 East Spring Valley Avenue  
Maywood, New Jersey 07607  
*Attorneys for Defendant, Township of Teaneck Planning Board*

**PLEASE TAKE NOTICE** that on November 18, 2022, at 9:30 a.m., or as soon thereafter as counsel can be heard, the undersigned, attorneys for proposed intervenor, Holy Name Medical Center, Inc. (“HNH”), shall move before the Superior Court of New Jersey, Law Division, Bergen County, Hackensack, New Jersey, for entry of an Order granting HNH’s motion to intervene as a defendant in the above-captioned matter.

**PLEASE TAKE FURTHER NOTICE** that in support of its motion, HNH shall rely upon the accompanying letter brief and Certification of Michael C. Klauder, Esq., submitted herewith. A proposed form of Order is also submitted herewith.

**PLEASE TAKE FURTHER NOTICE** that a copy of HNH’s proposed Answer and Case Information Statement is attached to the accompanying Certification of Michael C. Klauder, Esq., pursuant to Rule 4:33-3.

**PLEASE TAKE FURTHER NOTICE** that HNH requests oral argument on the return date of this motion if opposition is filed.

COLE SCHOTZ P.C.  
Attorneys for Proposed Intervenor, Holy  
Name Medical Center, Inc.

By: /s/ Michael C. Klauder  
Michael C. Klauder

DATED: November 2, 2022

Michael R. Yellin – Atty ID #014712008  
Michael C. Klauder – Atty ID #086632014  
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TOWNSHIP OF TEANECK and  
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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY  
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Civil Action

**[PROPOSED] ORDER GRANTING HOLY  
NAME MEDICAL CENTER, INC.’S  
MOTION TO INTERVENE**

**THIS MATTER** having been open to the Court by Cole Schotz P.C., attorneys for Holy Name Medical Center, Inc. (“HNH”), upon notice of motion to intervene pursuant to Rule 4:33-1 or, in the alternative, Rule 4:33-2; and the Court having read and considered the papers filed in support of the motion and in opposition thereto; and the Court having heard the oral argument of counsel; and for good cause shown,

**IT IS** on this \_\_\_\_ day of \_\_\_\_\_, 2022,

**ORDERED** that HNH’s motion to intervene be and the same hereby is GRANTED; and it is further

**ORDERED** that HNH shall file its proposed Answer and Affirmative Defenses to the Complaint in Lieu of Prerogative Writs and Case Information Statement within ten (10) days of the date of this Order; and it is further

**ORDERED** that counsel for HNH shall serve a copy of this Order on all counsel of record within five (5) days of the date of this Order.

\_\_\_\_\_  
HON. \_\_\_\_\_, J.S.C.

Opposed ( )  
Unopposed ( )

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Michael C. Klauder – Atty ID #086632014  
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TOWNSHIP OF TEANECK and  
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BOARD,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY  
DOCKET NO. BER-L-4361-22

Civil Action

**CERTIFICATION OF MICHAEL C.  
KLAUDER, ESQ. IN SUPPORT OF HOLY  
NAME MEDICAL CENTER, INC.'S  
MOTION TO INTERVENE**

MICHAEL C. KLAUDER, of full age, hereby certifies as follows:

1. I am an attorney-at-law of the State of New Jersey and a member of the law firm Cole Schotz P.C., attorney for proposed intervenor Holy Name Medical Center, Inc. (“HNH”), in connection with the above-captioned matter. As such, I am fully familiar with the facts set forth herein and submit this Certification in support of HNH’s motion to intervene.

2. A true copy of Plaintiffs’ Complaint in Lieu of Prerogative Writs filed in this action is attached hereto as **Exhibit A**.

3. A true copy of the Answer and Affirmative Defenses of the Township of Teaneck is attached hereto as **Exhibit B**.

4. A true copy of the Answer and Affirmative Defenses of the Township of Teaneck Planning Board is attached hereto as **Exhibit C**.

5. Pursuant to Rule 4:33-3, a true copy of HNH's proposed Answer and Affirmative Defenses to the Complaint in Lieu of Prerogative Writs, together with the accompanying Case Information Statement, is attached hereto as **Exhibit D**.

6. A true copy of Plaintiff's Complaint in Lieu of Prerogative Writs filed in the related action bearing the caption Michael Akerman, et al. v. Township of Teaneck, et al., Docket No. BER-L-2234-22 (the "First Action") is attached hereto as **Exhibit E**.

7. A true copy of this Court's Order, dated August 2, 2022, granting HNH's motion to intervene in the First Action is attached hereto as **Exhibit F**.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Michael C. Klauder  
MICHAEL C. KLAUDER

DATED: November 2, 2022

# **EXHIBIT A**

**HEROLD LAW, P.A.**

Robert F. Simon, Esq. (009461992)  
25 Independence Boulevard  
Warren, New Jersey 07059  
Telephone: (908) 647-1022  
*Attorneys for Plaintiffs*

MICHAEL AKERMAN, GEORGINA B.  
ASANTE, YAW ASANTE, DANIEL BELLIN,  
RENA DONIN SCHLUSSEL, YARON  
HIRSCHKORN, RACHEL KAYE, ASHIRA  
LOIKE, MERYL MARK, JOSEPH MARK, ALAN  
RUBINSTEIN, DAVID SCHLUSSEL, MARC  
SCHLUSSEL, and SHORANA SCHLUSSEL,

*Plaintiffs,*

vs.

TOWNSHIP OF TEANECK and TOWNSHIP OF  
TEANECK PLANNING BOARD

*Defendants.*

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
BERGEN COUNTY

DOCKET NO.: BER-L-

CIVIL ACTION

**COMPLAINT IN LIEU OF  
PREROGATIVE WRITS**

Plaintiffs, Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schlusssel, Yaron Hirschorn, Rachel Kaye, Ashira Loike, Alan Rubinstein, David Schlusssel, Marc Schlusssel, and Shorana Schlusssel (collectively “Plaintiffs”), by way of Complaint in Lieu of Prerogative Writs (the “Complaint”), against Defendants, Township of Teaneck (the “Township”) and Township of Teaneck Planning Board (the “Board”) (collectively, “Defendants”), say:

**NATURE OF ACTION**

1. In this action, Plaintiffs challenge the improper adoptions of Ordinance No. 22-2022 (“Ord. 22-2022”) and Ordinance No. 23-2022 (“Ord. 23-2022”) and the validity of the actions at the June 28, 2022 Township Council meeting wherein Ord. 22-2022 and Ord. 23-2022 were arbitrarily, capriciously, improperly, and illegitimately adopted, in violation of law, including the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., (the “OPMA”), the Municipal Land Use



Law, N.J.S.A. 40:55D-1 et seq. (the “MLUL”), the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq. (the “LGEL”), and the Township Code of Ethics (the “Code of Ethics”).

2. Plaintiffs also challenge the Board’s purported adoption of an Amendment to the Township’s Master Plan (the “Master Plan Amendment”) on December 16, 2021.

3. The Township had previously adopted Ordinance 9-2022 (“Ord. 9-2022”) to amend and revise sections 33-22, -24, of Article V, Chapter 33, of the Township’s Development Regulations and Zoning Ordinance (the “Ordinances”), regarding the expansion of the Township’s Hospital “H” Zoning District (the “H-Zone”).

4. Following the adoption of Ord. 9-2022, Plaintiffs filed a Complaint in Lieu of Prerogative Writs, Docket No. BER-L-2234-22 challenging Ord. 9-2022, in part because impermissible conflicts of interest required the invalidation of Ord. 9-2022.

5. Acknowledging these conflicts, the Township introduced and subsequently adopted Ord. 22-2022, which repealed Ord. 9-2022 and replaced it with nearly identical language.

6. Ord. 22-2022 was adopted for the express purpose of avoiding the conflicts of interest which tainted Ord. 9-2022.

7. Ord. 22-2022 expressly seeks to benefit Holy Name Medical Center, Inc. (“HMH”) and HMH’s development plans, through vacating a portion of Chadwick Road in favor of HMH.

8. Ord. 22-2022 and Ord. 23-2022 were introduced on May 17, 2022 and adopted on June 28, 2022.

9. The real property zoned and re-zoned by Ord. 9-2022 and subsequently Ord. 22-2022, all located in the H-Zone, is owned and/or controlled by Holy Name Medical Center, Inc., and identified on the Tax Maps of the Township as Block 3003, Lots 2, 3, 4, 8, 9, 10, 11, 12, 13, and 14; and Block 3002, Lots 2, 3, 4, 5, 6, 7 and 8 (jointly and severally, the “HMH Property”).

10. The H-Zone only contains properties owned and/or controlled by HMH.

11. The adoptions of Ord. 22-2022 and Ord. 23-2022 were accomplished without consideration of the general welfare of the Township of Teaneck, do not advance the health, safety, or welfare of the Township's residents and property owners, are not in the best interest of good zoning and planning, and are contrary to the MLUL, the LGEL, the OPMA, and the Code of Ethics.

12. The purported Master Plan Amendment was irreparably tainted by conflicts of interest by the Board's members and the attorney advising the Board and was void ab initio.

13. Plaintiffs seek, *inter alia*, judgment declaring Ord. 22-2022, Ord. 23-2022 and the purported Master Plan Amendment invalid, void and contrary to law.

14. This Court has subject matter jurisdiction over Plaintiffs' claims in this Complaint pursuant to the MLUL and R. 4:69.

### **THE PARTIES**

15. Defendant, Township of Teaneck, including the Township Council, the Mayor, Deputy Mayors (individually and collectively, the "Council"), Township Manager, Council Members, and other municipal officials thereof (individually and collectively, the "Township"), is a municipal corporation of the State of New Jersey, having offices at 818 Teaneck Road, Teaneck, NJ 07666.

16. Defendant, Township of Teaneck Planning Board, including its Board members (individually and collectively the "Board"), is a municipal agency constituted by the Township pursuant to the MLUL, with offices at 818 Teaneck Road, Teaneck, NJ 07666.

17. Plaintiffs Michael Akerman and Rachel Kaye are individual residents of Teaneck and owners of the property located at 692 Grange Road, Teaneck, N.J. 07666.

18. Plaintiffs Marc Schlusell and Shorana Schlusell are individual residents of Teaneck and the owners of the property located at 695 Grange Road, Teaneck, NJ 07666.

19. Plaintiffs David Schluskel and Rena Donin Schluskel are individual residents of Teaneck residing at 681 Grange Road, Teaneck, NJ 07666.

20. Plaintiff Alan Rubinstein is an individual resident of Teaneck and the owner of the property located at 3 Grange Court, Teaneck, NJ 07666.

21. Plaintiff Yaron Hirschorn is an individual resident of Teaneck and the owner of the property located at 728 Grange Road, Teaneck, NJ 07666.

22. Plaintiffs Daniel Bellin and Ashira Loike are individual residents of Teaneck and the owners of the property located at 135 Vandelinda Avenue, Teaneck, NJ 07666.

23. Plaintiffs Yaw Asante and Georgina B. Asante are individual residents of Teaneck and the owners of the property located at 140 Chadwick Road, Teaneck, NJ 07666.

24. Plaintiffs Meryl Mark and Joseph Mark are individual residents of Teaneck and the owners of the property located at 166 Norma Road, Teaneck, NJ 07666.

### **RELEVANT FACTS**

25. Upon information and belief, HNH has for many years sought to redevelop and expand its buildings, structures, and facilities.

26. These efforts included the purchase of various properties that currently comprise the HNH Property.

27. At various times between 2019 and the present, HNH, including its agents, employees, and professionals, discussed and negotiated with the Township terms to expand HNH's buildings, structures and facilities within the HNH Property, to permit the vacation of a certain Township right of way in favor of HNH, and for an amendment of the Township Master Plan and amendment of the Township's Ordinances so to permit the development, redevelopment and expansion of HNH's buildings, structures and facilities within the HNH Property.

28. During said timeframe, the Council also formed a Holy Name Medical Center three-person subcommittee (the “Holy Name Medical Center Subcommittee”) to engage in said discussions and negotiations with HNH to enact a Master Plan Amendment and an amendment of the Ordinances for the development, redevelopment and expansion of HNH’s buildings, structures and facilities within the HNH Property, all to benefit HNH.

29. Elie Y. Katz (“Katz”) is the First Deputy Mayor of the Township, a Member of the Council, a Member of the Holy Name Medical Center Subcommittee, and a Life Member of the Teaneck Volunteer Ambulance Corp (the “TVAC”).

30. The adoptions of Ord. 22-2022 and Ord. 23-2022 will directly benefit TVAC.

31. Mark J. Schwartz (“Schwartz”) is the Second Deputy Mayor of the Township, a Member of the Council, a Member of the Holy Name Medical Center Subcommittee, a Class III Member of the Planning Board, a Life Member and a 19-year active Member of TVAC and the Vice President of Operations, a Member of the Executive Committee, a Member of the Board of Directors of Yavneh Academy & Talmud Torah of Paterson (“Yavneh”), and Publisher of The Jewish Link Newspaper (the “Jewish Link”).

32. Katz and Schwartz were members of, and controlled, the Holy Name Medical Center Subcommittee.

33. HNH is a frequent paid advertiser in the Jewish Link.

34. The Jewish Link has published articles publicly supporting the zoning changes implemented in Ord. 9-2022 and re-adopted in Ord. 22-2022.

35. Karen Orgen (“Orgen”) is a Member of the Township Council and a Life Member and former President of TVAC.

36. Orgen’s husband, Eric Orgen, is a Life Member and the current President of TVAC.

37. Upon information and belief, a family member of Orgen was recently hired by HNH.

38. James Dunleavy (“Dunleavy”) is the Mayor of the Township, and, upon information and belief, an employee of HNH from approximately 1999 to 2003.

39. On or about July 8, 2020, HNH and the Township issued a joint press release that disclosed a plan agreed to by HNH and the Township to expand the hospital and for HNH to donate monies to TVAC for TVAC equipment and supplies (the “Joint Press Release”).

40. The Joint Press Release disclosed, among things, that “[a]s part of the plan, the hospital [HNH] will pay \$10 million over 10 years in property, sewage and water taxes and fees for property it owns in Teaneck. The hospital [HNH] will also cover the Township’s annual contribution to the Teaneck Volunteer Ambulance Corps (TVAC) for the same number of years.”

41. According to the Township Budget for 2021, the Township paid \$70,000.00 to TVAC.

42. A similar annual amount has been paid by HNH to TVAC in 2018, 2019, and 2020.

43. Based on the contents of the Joint Press Release, HNH will be paying TVAC \$700,000.00 over a 10-year period, or \$70,000.00 annually.

44. The payments contemplated in the Joint Press Release do not preclude the Township from continuing to make its own (additional) \$70,000.00 annual contributions to TVAC.

45. The Township’s annual contributions to TVAC are limited to \$70,000.00 pursuant to N.J.S.A. 40:5-2, which statutory limit does not apply to payments made by HNH.

46. As part of the agreement between HNH and the Township to facilitate the redevelopment and expansion plans for the HNH Property as sought by HNH, the Township

negotiated with HNH for TVAC to receive from HNH a financial benefit; namely, HNH making the Township's annual contribution to TVAC.

47. As demonstrated by the contents of the Joint Press Release, the Township and HNH created a direct nexus between the Township's annual obligation to fund TVAC and HNH's expansion plans.

48. The Township and HNH negotiated HNH funding of the Township's annual financial obligations to TVAC for the benefit of TVAC, a private entity in which three (3) Council Members are Life Members, active Members, or former President.

49. Life Membership status in TVAC is an honor which acknowledges ten (10) years of active service to TVAC and means that an individual remains a full member of TVAC even after their active participation ceases.

50. Just prior to the date of the Joint Press Release, HNH entered into a contract with Yavneh to purchase property located at Block 3002, Lot 6 in Teaneck, New Jersey, commonly known as 75 Chadwick Road, Teaneck, New Jersey 07666, for a purchase price of \$750,000.00 (the "Yavneh Property").

51. Yavneh had purchased the Yavneh Property from 75 Chadwick LLC on December 29, 2017, for a purchase price of \$600,000.00.

52. The closing on the Yavneh Property occurred on or about July 20, 2020, twelve (12) days after the date of the Joint Press Release.

53. Schwartz, as the Vice President of Operations of Yavneh, was actively involved in the sale of the Yavneh Property by Yavneh to HNH.

54. The Township Council, at a meeting held on August 11, 2020, adopted Resolution 159-2020 by a unanimous vote of 6-0, authorizing Phillips, Preiss, Grygiel, Leheny, Hughes LLC, Planning and Real Estate Consultants ("Phillips Preiss") to undertake a master plan reexamination

report under the direction of the Planning Board for expansion of the Hospital Zone within the Township.

55. Katz abstained from voting on Resolution 159-2020, while Orgen, Dunleavy and Schwartz all voted in favor of Resolution 159-2020.

56. At the August 11, 2020 Township Council meeting, the Council adopted Resolution 160-2020 by a unanimous vote of 7-0, authorizing the Planning Board to undertake a master plan reexamination and prepare a report, including recommendations of proposed development regulations, regarding the Township's H-Zone.

57. Katz, Orgen, Dunleavy and Schwartz all voted in favor of Resolution 160-2020.

58. At the August 11, 2020 meeting, Katz and Orgen emphasized their connection to TVAC and the importance of the organization.

59. Orgen's husband spoke at the Township Council meeting on August 11, 2020 in favor of Resolution 159-2020 and Resolution 160-2020, introducing himself to the Council as the President of TVAC and as a trustee of TVAC.

60. On November 17, 2020, the Township issued Special Emergency Directive No. 03-2020 (the "2020 Special Emergency Directive"). The 2020 Special Emergency Directive, among other things, authorized HNH "to construct a temporary parking lot to accommodate the anticipated parking needs for the second round of COVID-19 cases" on Block 3002, Lots 1-6 (the "Temporary Parking Lot").

61. Even though the Township offices were open, and its land use boards were meeting regularly via the Zoom virtual platform, the 2020 Special Emergency Directive asserts that given the COVID-19 health emergency, the "approval process to approve such proposed temporary emergency medical facilities has experienced extensive delays."

62. The 2020 Special Emergency Directive further asserts that the “provisions set forth in Chapter 33, Development Regulations of the Code of the Township of Teaneck...present a potential impediment to protect and maintain the health, safety, and welfare of New Jersey residents and visitors against the effects of COVID-19 with respect to the provision of emergency medical care.”

63. The 2020 Special Emergency Directive defines “Temporary Emergency Medical Facilities” to include “parking lots, which are immediately necessary to care for and treat patients suffering from COVID-19 during the current health emergency.”

64. The Yavneh Property that HNH bought four (4) months earlier from Yavneh for \$150,000.00 more than Yavneh paid for it is part of the parcels that were included in the 2020 Special Emergency Directive.

65. At the March 10, 2022 Board meeting, the Board’s traffic engineer, John Corak of Stonefield Engineering, testified regarding the parking requirements in Ord. 9-2022 and stated that HNH’s parking needs during COVID-19 were less than its parking needs pre-COVID-19.

66. At that same March 10, 2022 Board meeting, Deputy Mayor Schwartz said that there is not a parking problem at HNH, and that there is plenty of parking, maybe due to COVID-19.

67. The 2020 Special Emergency Directive suspended “the procedural requirements for obtaining site plan, subdivision, and zoning approvals for the construction of temporary emergency medical facilities, including parking areas.”

68. Although the 2020 Special Emergency Directive required that “Applications for temporary emergency medical facilities shall be submitted to Teaneck’s Construction Code Official for processing” according to the Township’s Construction Official, the applications were not filed by HNH with the Township until on or about Monday, April 19, 2021



69. The Township allowed the Temporary Parking Lot to be built by HNH prior to the filing by HNH of said applications for temporary emergency medical facilities.

70. The Temporary Parking Lot was built by HNH prior to the filing by HNH of said applications for temporary emergency medical facilities.

71. The Zoning Permits that were issued pursuant to the 2020 Special Emergency Directive were signed by the Township's Construction Official on May 14, 2021.

72. Although the 2020 Special Emergency Directive required that "all plans shall comply with the setback, coverage, height, floor area ratio, landscaping and other substantive criteria applicable for site plans, subdivisions and zoning, other than the provisions relating to uses", as the entirety of Lots 2-6 are gravel parking areas, the Temporary Parking Lot was permitted by the Township to be built, and was in fact built, without first complying with all applicable site plan and zoning criteria including but not limited to lot coverage limitations, landscaping, storm water or other substantive criteria that are required for the development and use of other properties within the Township.

73. Upon information and belief, the Temporary Parking Lot was built without complying with the New Jersey Department of Environmental Protection storm water requirements for water quality or for storm water runoff.

74. Four (4) zoning permits that were applied for by HNH on or about April 19, 2021 were issued by the Township's Construction Official on or about May 14, 2021, pursuant to the 2020 Special Emergency Directive – Zoning Permit Number 20210344 for Block 3002, Lot 2 (70 Cedar Lane), Zoning Permit Number 20210345 for Block 3002, Lot 4 (45 Chadwick Road), Zoning Permit Number 20210346 for Block 3002, Lot 5 (53 Chadwick Road), and Zoning Permit Number 20210347 for Block 3002, Lot 6 (75 Chadwick Road).

75. Each of these zoning permits was “Approved with Conditions” and stated in the additional comments directly above the signature of the Township’s Construction Official that the permits “shall expire upon termination of the Health Emergency or Special Emergency Directive.”

76. The 2020 Special Emergency Directive states in subparagraph f. that “Any permits issued by the Construction Official under these temporary rules and regulations promulgated hereunder shall expire upon the termination of the health emergency or the termination of the Special Emergency Directive, whichever first occurs.”

77. On June 4, 2021, Governor Murphy signed Assembly Bill No. 5820 into law as P.L.2021, c.103 and issued Executive Order No. 244, which terminated the public health emergency declared in Executive Order No. 103 (March 9, 2020). Executive Order No. 244 states in paragraphs 1 and 3 that “The Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to EHPA, N.J.S.A. 26:13-1, et seq., is hereby terminated” and “This Order shall take effect immediately.”

78. Once said public health emergency was terminated by Governor Murphy on June 4, 2021, the temporary rules and regulations and procedural requirements that were suspended temporarily and purportedly authorized by the 2020 Special Emergency Directive were automatically reinstated by operation of law. This resulted in the expiration of the zoning permits issued to HNH.

79. On November 27, 2021, the Township of Teaneck improperly issued Special Emergency Directive No. 01-2021 (the “2021 Special Emergency Directive”) that ordered and directed that the procedural requirements necessary for obtaining site plan, subdivision, and zoning approvals would not apply to HNH for the construction of commercial parking areas primarily in a Residential Zone on five properties on Chadwick Road and Cedar Lane.

80. The 2021 Special Emergency Directive notes that procedural requirements are “temporarily suspended, *nunc pro tunc* [sic] from the date of the termination of the Public Health Emergency on June 4, 2021 and until the termination of the State of Emergency initially declared in Executive Order No. 103 (2020).”

81. The 2021 Special Emergency Directive improperly abrogated the MLUL and the rules and regulations of the New Jersey Department of Environmental Protection to the benefit of HNH.

### **CONFLICTS OF INTEREST**

82. On or about June 29, 2021, real property at 115 Chadwick Road, Block 3002, Lot 12, was listed for \$429,000.00, and months later sold for \$465,000.00 to Holy Name Real Estate Corp., a subsidiary of HNH.

83. The real estate agent representing HNH for that transaction was Kenneth Croonquist, the Captain of Operations for the Teaneck Police Department, and the Board’s Class II Board Member (“Croonquist”).

84. On May 8, 2020, Croonquist filed a Financial Disclosure Statement in accordance with the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 *et seq.*, for 2020 that disclosed that he received income in excess of \$2,000.00 from Russo Real Estate during 2020.

85. Croonquist did not file Financial Disclosure Statements with the State of New Jersey Department of Community Affairs Division of Local Government Services Local Finance Board for the 2021 and 2022 years of service.

86. On December 16, 2021, Croonquist and Schwartz voted for the Master Plan Amendment at the December 2021 Planning Board meeting, on a motion made by Schwartz that was seconded by Croonquist, one month after the closing on the property (November 17, 2021)

for which Croonquist acted as real estate agent for HNH (115 Chadwick Road) and one day after the date that HNH recorded the deed for property (December 15, 2021).

87. The Board was advised by Brian Eyerman, Esq., the Board's attorney and a member of the law firm Dario, Albert, Metz, Eyerman, Canda, Concannon, Ortiz & Krouse LLC ("Eyerman").

88. Eyerman has a conflict of interest preventing his representation of the Board with regard to matters concerning HNH, due to the employment of his brother, Luke E. Eyerman, M.D., by HNH.

89. In addition to his employment by HNH, Luke Eyerman at points during the last few years had, upon information and belief, a leadership position at HNH.

90. Plaintiffs were not aware of Board attorney Eyerman's disqualifying conflict of interest until after the March 10, 2022 Board meeting.

91. Eyerman failed to recuse himself from consideration of the Master Plan Amendment in December 2021 and drafted the consistency review report concerning Ordinance 9-2022 and the Master Plan Amendment by letter dated March 14, 2022.

92. During the consistency review Eyerman also gave instructions to and helped frame the acceptable bounds of the conversation of the Planning Board members.

93. These disqualifying conflicts by Schwartz, Croonquist, and Eyerman render the December 2021 purported Master Plan Amendment for development, redevelopment, and expansion of HNH's buildings, structures, and facilities, as null and void and of no force or effect.

94. Ord. 22-2022 contemplates vacating portions of a public right of way, Chadwick Road, to HNH, whereby HNH would receive almost an acre of real property from the Township for its use without HNH having to pay appropriate consideration for same, to be implemented through Ord. 23-2022.

95. Upon information and belief, no traffic study has ever been commissioned to analyze the implications of vacating the portions of Chadwick Road contemplated by Ord. 23-2022.

96. On March 15, 2022, at approximately 10:15 a.m., certain Plaintiffs filed with the Township Clerk 42 Protest Petitions (“Protest Petition”) along with a Professional Planner Certification by T. Andrew Thomas in opposition to proposed Ord. 9-2022, in accordance with N.J.S.A. 40:55D-63.

97. At the March 15, 2022 public hearing on Ord. 9-2022, no discussion was held concerning the previously alleged conflicts of Katz, Schwartz and Orgen, except for a statement by Orgen just prior to a vote on the ordinance that she was recusing herself because an unnamed family member was recently employed by HNH.

98. No other members of the Council recused from voting on Ord. 9-2022, despite some having disqualifying conflicts of interest.

99. The motion to adopt Ord. 9-2022 was made by conflicted Council Member Deputy Mayor Schwartz and seconded by conflicted Council Member Deputy Mayor Katz.

100. Ord. 9-2022 was approved and adopted on March 15, 2022 by the Council by a vote of 6-0-1, with Orgen being the only recusal.

101. On April 21, 2022, the individuals who are Plaintiffs in this action filed a complaint in lieu of prerogative writs (Docket No. BER-L-2234-22) against the Township and the Board.

102. Count I of Plaintiffs’ prior complaint challenges the March 10, 2022 invalid purported review of Ord. 9-2022, based in part upon Schwartz’s and Croonquist’s knowing refusal to recuse themselves despite knowing they had conflicts of interest which prevented them from participating in those hearings, in violation of law, including the LGEL, the MLUL, and the Township Code of Ethics.

103. Count II of Plaintiffs' prior complaint challenges the Council's invalid purported adoption of Ord. 9-2022, based in part upon Katz's, Schwartz's, and Dunleavy's knowing refusals to recuse themselves despite knowing they had conflicts of interest which prevented them from participating in consideration of Ordinance 9-2022 in violation of law, including the LGEL, the MLUL, and the Township Code of Ethics.

104. The remaining Counts III through VIII of Plaintiffs' prior complaint address other relevant violations of law in connection with the hearing on and purported adoption of Ord. 09-2022 and the Board's invalid review of Ord. 09-2022.

105. In acknowledgement of their conflicts of interest, on May 17, 2022, the Council introduced Ord. 22-2022 to repeal Ord. 9-2022.

106. The Council admitted in the penultimate introductory "Whereas" clauses of Ord. 22-2022 that "allegations have been made concerning potential conflicts of interest respecting the review and enactment of Ordinance 9-2022" and "to dispel any such allegations, the Township Council finds that it is in the best interest of the citizens of the Township of Teaneck to repeal Ordinance No. 9-2022 and to introduce a new ordinance respecting the expansion of the Hospital H Zoning District."

107. During the May 17, 2022 Council meeting, the Township attorney announced there are multiple Council members who have determined that they should recuse themselves, and they would identify themselves at the appropriate time.

108. Nevertheless, only Orgen announced that she would recuse herself, as she previously had announced at the February 22, 2022 and March 15, 2022 Council meetings.

109. Schwartz left the meeting prior to the voting on the ordinance but did not explain the reason for his departure from the meeting.

110. Despite the conflicts of interest noted in the Complaint concerning Katz and Dunleavy, both Katz and Dunleavy remained at the hearing, and both voted in favor of the Ord. 22-2022.

111. Ord. 22-2022 contains an admission of conflicts of interest involving Council members, demonstrating not only the invalidity of Ord. 9-2022, but also all actions taken by the Council and its members involving the Master Plan Amendment and negotiations undertaken by the Council's Hospital Subcommittee.

112. The first paragraph of Ord. 22-2022 states, "BE IT RESOLVED by the Township of Teaneck that Ordinance #22-2022 passed on first reading and that said Ordinance will be further considered for a public hearing and final adoption thereon at a meeting of the Township Council to be held on June 14, 2022 Meeting at 8PM."

113. The third paragraph of that Ordinance stated that "BE IT RESOLVED by the Township of Teaneck that Ordinance #22-2022 passed on first reading and that said Ordinance will be further considered for a public hearing and final adoption thereon at a meeting of the Township Council to be held on May 31, 2022 Meeting at 8PM."

114. The text of Ord. 22-2022 appeared with inconsistent language for the date of the public hearing on both the Agenda Outline and Agenda Packet tabs on the Township website, and hard copies of the draft ordinance with inconsistent public hearing dates were distributed to members of the public at the May 17, 2022 Council meeting.

115. On May 17, 2022, Ord. 22-2022 passed on first reading with inconsistent dates for the public hearing, as both May 31, 2022 and June 14, 2022 were approved as the dates for the public hearing.

116. Instead of invalidating an improperly noticed ordinance, on May 18, 2022, **the Township backdated its records** by changing the “official” Agenda Outline and Agenda Packet for the May 17 meeting by improperly changing the date of the public hearing to June 28, 2022.

117. Since the time and place of the public hearing that passed at the first reading differs from the time and place identified in the newspaper notice published on May 22, 2022, the purported adoption of Ord. 22-2022 was in violation of N.J.S.A. 40:49-2, and therefore invalid.

### **REFUSAL TO CONDUCT CONSISTENCY REVIEW**

118. On May 19, 2022, pursuant to the requirements of N.J.S.A. 40:55D-64, the Council referred Ord. 22-2022 and Ord. 23-2022 to the Planning Board for a consistency review, identifying the second reading as scheduled for June 28, 2022, a little over 35 days later.

119. Per Teaneck Township Code, Art. XVI, Sec. 2-92 and Teaneck Planning Board By-Laws, Planning Board members shall include the Mayor (Class I member), a Township Official appointed by the Mayor (Class II member), and a Council Member appointed by the Council (Class III member).

120. At the time of the May 19, 2022 referral, the Class I member was the conflicted Mayor, the Class II member was conflicted member Croonquist, and the Class III member was conflicted member Schwartz.

121. The Planning Board was required to transmit its report to the Council within 35 days after referral (*i.e.*, by June 23, 2022), in accordance with N.J.S.A. 40:55D-26(a): “the planning board **shall** make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulations, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate.” (emphasis added).



122. The Board had the opportunity to conduct consistency reviews of Ord. 22-2022 and Ord. 23-2022 at three separate scheduled meetings (May 26, 2022, June 9, 2022, and June 23, 2022) within the mandatory 35-day time window.

123. The Board failed to schedule or hold any hearings to review either ordinance for consistency with the Master Plan, in violation of N.J.S.A. 40:55D-26.

124. The Board also cancelled the regularly scheduled meeting on May 26, 2022, based on the demonstrably false claim of “a lack of agenda items”.

125. Upon information and belief, the Board intentionally permitted the 35-day period for consistency review under N.J.S.A. 40:55D-26 to lapse, to avoid with the legal requirement that a consistency review be held for Ord. 22-2022 and Ord. 23-2022.

126. On June 24, 2022, certain Plaintiffs filed with the Township Clerk forty-six (46) Protest Petitions along with a Professional Planner Certification by T. Andrew Thomas in opposition to proposed Ordinance 22-2022, in accordance with N.J.S.A. 40:55D-63.

127. On June 28, 2022 (the backdated hearing date), the Township Council conducted a hearing on Ord. 22-2022 and Ord. 23-2022, notwithstanding the absence of any Planning Board report pursuant to N.J.S.A. 40:55D-26.

128. At the June 28, 2022 public hearing on Ord. 22-2022 and Ord. 23-2022, no discussion was held concerning the previously identified conflicts of Katz and Dunleavy.

129. During the comments by the Council, Councilwoman Gervonn Romney Rice (“Rice”) indicated she would abstain from voting on the Ordinances.

130. During the meeting and after Rice’s statement, Katz approached Rice and whispered to her for approximately one-half minute, in violation of the OPMA.

131. Prior to voting on the Ordinances, Katz appeared to be reading and sending text messages, then whispered to Dunleavy, and then Dunleavy requested a point of personal privilege and a five-minute recess.

132. At no time was the public meeting adjourned or a motion made to enter a closed session.

133. The Council recessed for approximately ten minutes, during which time four (4) of the five (5) non-recused members of the Council (Dunleavy, Katz, Rice, and Michael Pagan (“Pagan”)) exited the Council Chambers and entered the Municipal Court Office, which was only open to all of the Council Members.

134. Upon information and belief, an effective majority of Council members proceeded to discuss the pending Ordinances in the Municipal Court Office.

135. Pagan returned to the dais of the Council Chambers approximately four and a half minutes after entering the Municipal Court Office.

136. Upon information and belief, a conversation continued in the Municipal Court Office between Dunleavy, Katz, and Rice, an effective majority of eligible Council members, behind closed doors.

137. Katz exited the Municipal Court Office and had conversations in the Building’s Lobby Area with Township attorney John Shahdanian (“Shahdanian”) and then with HNH’s Executive Vice President Steven Mosser, its consultant Stan Steinreich, and attorney Wendy Berger.

138. At no point were the public, any of the objectors, or their attorney advised of the ongoing negotiations or that a non-public closed-session meeting was being held by an effective majority of Council members.

139. When the official Council Meeting resumed, Dunleavy announced, “We’re just going to be telling you something now. Here’s what we want. What we want from the hospital and from the good neighbors is a commitment, a strong commitment that you will continue to talk to each other and try to come to some agreement on some of these issues as we move forward. I want that commitment from both of you.”

140. HNH Attorney Wendy Berger agreed to the condition.

141. Plaintiffs’ attorney Robert F. Simon was attending the meeting via Zoom and was unaware of the surreptitious and secret closed session meeting that had transpired behind closed doors in the Municipal Court Office, the meeting between Katz and HNH in the Building’s lobby, or any decision made by the Council concerning the vote.

142. Attorney Simon inquired what would happen with the vote on the pending Ordinances.

143. In response, Dunleavy stated no information would be provided, but emphasized the hospital has given its commitment.

144. Attorney Simon agreed to continue negotiations in good faith.

145. Given a protest petition had been filed, adoption of Ord. 22-2022 required a supermajority of five votes to pass, in accordance with N.J.S.A. 40:55D-63.

146. When Shahdanian was asked if the votes for Ord. 22-2022 and 23-2022 should be held separately, Shahdanian said to vote on them together.

147. Orgen had announced her recusal, Schwartz had announced his recusal, and Rice had previously announced she would abstain from voting, leaving only four votes available for voting.

148. The Board nevertheless put both Ordinances up for one vote, even though there was a different voting requirement to pass each of the Ordinances, and instead of abstaining as she

previously had announced, before the secret closed-session meeting, Rice changed her mind and voted in favor of adopting the Ordinances, providing the fifth vote necessary for adoption.

149. Upon information and belief, Rice changed her mind based on the secret closed session meeting held by an effective majority of the non-recused members of the Council during a ten-minute recess, in violation of OPMA.

150. Ordinances 22-2022 and 23-2022 were approved and adopted on June 28, 2022 by the Council by a vote of 5-0-2, with recusals by Orgen and Schwartz.

151. On May 17, 2022, the Council introduced Ord. 23-2022 to vacate a portion of Chadwick Road.

152. The Township was required by N.J.S.A. 40:55D-62.1 to provide “Notice of a hearing on an amendment to the zoning ordinance proposing a change to the classification or boundaries of a zoning district, exclusive of classification or boundary changes recommended in a periodic general reexamination of the master plan by the planning board pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89), shall be given at least 10 days prior to the hearing by the municipal clerk to the owners of all real property as shown on the current tax duplicates, located, in the case of a classification change, within the district and within the State within 200 feet in all directions of the boundaries of the district, and located, in the case of a boundary change, in the State within 200 feet in all directions of the proposed new boundaries of the district which is the subject of the hearing.”

153. On or about June 14, 2022, the Township provided notices to some of the properties located within 200 feet of the portion of Chadwick Road proposed to be vacated under Ord. 23-2022.

154. The Township failed to provide the required notices to the six properties located at:  
80-140 Cedar Lane (Block 3002, Lot 1);

105 Chadwick Road (Block 3002, Lot 10);

109 Chadwick Road (Block 3002, Lot 11);

118 Chadwick Road (Block 3003, Lot 1);

55-63 Cedar Lane (Block 2914, Lot 1); and

70 Sterling Place (Block 2914, Lot 2).

155. Ord. 23-2022 was adopted without any discussion or hearing on the merits.

### **COUNT I**

#### **THE BOARD'S ACTIONS IN ADOPTING THE DECEMBER 16, 2021 AMENDMENT TO THE MASTER PLAN WERE VIOLATIVE OF LAW**

156. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

157. The December 16, 2021 purported Master Plan Amendment failed to comply with N.J.S.A. 40:55D-28.

158. Schwartz and Croonquist improperly failed to acknowledge at the December 16, 2021 Board meeting that they each had conflicts of interest that precluded them from participating in any discussion or vote as to an amendment of the Master Plan to support HNH's development plans.

159. Eyerman also improperly failed to acknowledge he had a conflict of interest that precluded him from advising the Board regarding the consideration of the Master Plan Amendment in December 2021.

160. Schwartz subsequently acknowledged his conflict of interest when he recused himself from consideration of Ord. 22-2022 and Ord. 23-2022 at the June 28, 2022 Council Meeting.

161. Croonquist's participation at the December 16, 2021 meeting concerning the Master Plan Amendment was unlawful and a violation of the LGEL, the MLUL, and the Code of Ethics.

162. Croonquist's unlawful participation at the December 16, 2021 meeting concerning the Master Plan Amendment irreparably tainted any Board action as to same.

163. Croonquist's unlawful participation in the December 16, 2021 Board meeting concerning the Master Plan Amendment means the Master Plan Amendment is void ab initio.

164. Schwartz's participation at the December 16, 2021 meeting concerning the Master Plan Amendment was unlawful and a violation of the LGEL, the MLUL, and the Code of Ethics.

165. Schwartz's unlawful participation at the December 16, 2021 meeting concerning the Master Plan Amendment irreparably tainted any Board action as to same.

166. Schwartz's unlawful participation in the December 16, 2021 Board meeting concerning the Master Plan Amendment means the Master Plan Amendment is void ab initio.

167. Eyerman's participation at the December 16, 2021 meeting in the Board's consideration of the Master Plan Amendment was unlawful and a violation of the LGEL, the MLUL, and the Code of Ethics.

168. Eyerman's participation in the Board's consideration of the Master Plan Amendment irreparably tainted any Board action as to same.

169. Eyerman's participation in the Board's consideration of the Master Plan Amendment means the Master Plan Amendment is void ab initio.

170. The Board's failure to address the disqualifying conflicts of interest for Schwartz, Croonquist, and Eyerman pursuant to law was arbitrary, capricious, unreasonable, and unlawful, rendering the Master Plan Amendment as void ab initio.

171. The Board's actions as to the Master Plan Amendment have deprived Plaintiffs of their right to an impartial quasi-judicial body and a fair proceeding.

172. As the Master Plan Amendment was invalid and void as a matter of law, the adoption by the Council of Ord. 9-2022, Ord. 22-2022, and Ord. 23-2022 were invalid as a matter of law.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Board's actions at the Board's December 21, 2021 meeting concerning the Master Plan Amendment were arbitrary, capricious, unreasonable, and unlawful;
- (b) Finding that Croonquist, Schwartz, and Eyerman suffered disqualifying conflicts of interest;
- (c) Enjoining and restraining Croonquist, Schwartz, and Eyerman from further participation in any proceeding involving the Master Plan Amendment, Ord. 9-2022, Ord. 22-2022 and Ord. 23-2022 or the HNH Property;
- (d) Finding the Master Plan Amendment and the actions of the Board at its December 21, 2021 meeting concerning the Master Plan Amendment as void, ultra vires and without effect;
- (e) Invalidating Ord. 9-2022, Ord. 22-2022, and Ord. 23-2022;
- (f) Awarding attorneys' fees, costs of suit and interest; and
- (g) Awarding any and all such other relief as this Court deems equitable and just.

**COUNT II**

**IMPERMISSIBLE CONFLICTS  
OF INTEREST**

173. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

174. The Township's refusal to address at the public hearing on Ord. 22-2022 and Ord. 23-2022 the multiple disqualifying conflicts of interest of Council members was arbitrary, capricious, unreasonable, and a violation of law including the LGEL, the Code of Ethics, and the OPMA.

175. Katz suffered a disqualifying conflict of interest regarding Ord. 22-2022 and Ord. 23-2022 and should have recused himself as to any consideration of Ord. 22-2022 or Ord. 23-2022.

176. Despite Katz having a disqualifying conflict of interest regarding Ord. 22-2022 and Ord. 23-2022, requiring him to recuse himself from publicly participating in the consideration of, or in the vote on these ordinances, he improperly participated in the public hearing on June 28, 2022, in violation of law including the LGEL and the Code of Ethics.

177. Despite Katz having a disqualifying conflict of interest regarding Ord. 22-2022 and Ord. 23-2022, requiring him to recuse himself from publicly participating in the consideration of, or in the vote on these ordinances, he improperly voted on said Ordinances, in violation of law including the LGEL and the Code of Ethics.

178. Katz's participation during the June 28, 2022 Council meeting regarding consideration of Ord. 22-2022 and Ord. 23-2022 irreparably tainted any Council action as to same and requires the invalidation of Ord. 22-2022 and Ord. 23-2022.



179. Dunleavy suffered a disqualifying conflict of interest regarding Ord. 22-2022 and Ord. 23-2022 and should have recused himself as to any consideration of Ord. 22-2022 or Ord. 23-2022.

180. Despite Dunleavy having a disqualifying conflict of interest regarding Ord. 22-2022 and Ord. 23-2022, requiring him to recuse himself from publicly participating in the consideration of, or in the vote on, these ordinances, he improperly participated in the public hearing on June 28, 2022, in violation of law including the LGEL and the Code of Ethics.

181. Despite Dunleavy having a disqualifying conflict of interest regarding Ord. 22-2022 and Ord. 23-2022, requiring him to recuse himself from publicly participating in the consideration of, or in the vote on, these ordinances, he improperly voted on said ordinances, in violation of law including the LGEL and the Code of Ethics.

182. Dunleavy's participation during the June 28, 2022 Council meeting regarding consideration of Ord. 22-2022 and Ord. 23-2022 irreparably tainted any Council action as to same and requires the invalidation of Ord. 22-2022 and Ord. 23-2022.

183. Upon information and belief, members of the Board and/or the Township, including the Mayor, both Deputy Mayors and members of the Township Council, participated in substantive discussions, meetings and negotiations with HNH and its employees, agents and representatives concerning development of the HNH Property, all prior to the introduction of Ord. 9-2022, Ord. 22-2022 and Ord. 23-2022, in violation of the OPMA.

184. Said participation by members of the Board and/or Council disqualified such members from hearing, participating in, deliberating upon or voting on Ord. 22-2022 and Ord. 23-2022.

185. Given the conflicts of interest of certain members of the Council, Ord. 22-2022 and Ord. 23-2022 would not have received the required, favorable vote of two-thirds of all the members

of the governing body of the municipality following the filing of the Protest Petition, per N.J.S.A. 40:55D-63.

186. The Council's actions improperly deprived Plaintiffs of their right to an impartial legislative body and a fair proceeding.

187. Ord. 22-2022 and Ord. 23-2022 are invalid as adopted contrary to law.

188. The Township's actions at the June 28, 2022 meeting as to Ord. 22-2022 and Ord. 23-2022 were in violation of law and deprived Plaintiffs of their legal rights.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Township's actions at the June 28, 2022 meeting concerning Ord. 22-2022 and Ord. 23-2022 were arbitrary, capricious, unreasonable, and unlawful;
- (b) Finding that Katz and Dunleavy suffered disqualifying conflicts of interest as to Ord. 22-2022 and Ord. 23-2022;
- (c) Enjoining and restraining Katz, Schwartz, Dunleavy, Orgen and Croonquist from further participation in any proceeding involving Ord. 9-2022, Ord. 22-2022, Ord. 23-2022, or the HNH Property;
- (d) Invalidating Ord. 9-2022, Ord. 22-2022 and Ord. 23-2022 and the actions of the Township at its June 28, 2022 meeting concerning Ord. 22-2022 and Ord. 23-2022 as ultra vires and without effect;
- (e) Awarding attorneys' fees, costs of suit and interest; and
- (f) Awarding any and all such other relief as this Court deems equitable and just.

### **COUNT III**

#### **UNLAWFUL AVOIDANCE OF CONSISTENCY REVIEW**

189. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

190. N.J.S.A. 40:55D-64 requires:

Prior to the hearing on adoption of a zoning ordinance, or any amendments thereto, the governing body shall refer any such proposed ordinance or amendment thereto to the planning board pursuant to [N.J.S.A. 40:55D-26.a]

191. N.J.S.A. 40:55D-26.a requires:

Prior to the adoption of a development regulation, revision, or amendment thereto, the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate. The governing body, when considering the adoption of a development regulation, revision or amendment thereto, shall review the report of the planning board and may disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following such recommendation.

192. On May 19, 2022, the Council referred Ord. 22-2022 and Ord. 23-2022 to the Planning Board for a consistency review, identifying the second reading as scheduled for June 28, 2022.

193. The Planning Board was required to create and transmit a report to the Council within 35 days after referral (*i.e.*, by June 23, 2022).

194. The Board had the full opportunity to conduct consistency reviews of Ord. 22-2022 and Ord. 23-2022 at three separate scheduled meetings (May 26, 2022, June 9, 2022, and June 23, 2022) within the mandatory 35-day time window.

195. The Board refused to schedule or hold any hearings to review either ordinance for consistency with the Master Plan, in violation of N.J.S.A. 40:55D-26.

196. Instead, the Board cancelled the regularly scheduled meeting on May 26, 2022 based on the demonstrably false claim of a lack of agenda items, despite having been advised of the requirement to conduct consistency reviews for Ord. 22-2022 and Ord. 23-2022.

197. N.J.S.A. 40:55D-26.a provides:

Failure of the planning board to transmit its report within the 35-day period provided herein shall relieve the governing body from the requirements of this subsection in regard to the proposed development regulation, revision or amendment thereto referred to the planning board.

198. Upon information and belief, the Board intentionally permitted the 35-day period for consistency review under N.J.S.A. 40:55D-26 to lapse to dispense with the legal requirement for the Council to consider the Board's report and address the Board's recommendations.

199. Upon information and belief, this was done to unlawfully expedite, and reduce the public's opportunities to scrutinize and object to the adoption of two spot-zoning ordinances intended to provide a benefit to HNH.

200. This manipulation of the required legal process was a violation of the LGEL, including but not limited to N.J.S.A. 40A:9-22.5.c, which states, "No local government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others;".

201. Upon information and belief, members of the Council were complicit in this unlawful manipulation of the required legal process for adoption of an Ordinance.

202. The Board's refusal to conduct consistency reviews of Ord. 22-2022 and Ord. 23-2022 pursuant to N.J.S.A. 40:55D-26 was arbitrary, capricious, unreasonable, and a violation of law, including the MLUL and the LGEL.

203. The Board's refusal to perform consistency reviews of Ord. 22-2022 and Ord. 23-2022 was arbitrary, capricious, ultra vires, improper and deprived Plaintiffs of their legal rights.

204. Given Plaintiffs were deprived of their rights due to the unlawful manipulation of N.J.S.A. 40:55D-26, the Council's adoption of Ord. 22-2022 and 23-2022 was ultra vires and invalid.

205. Ord. 22-2022 and 23-2022 are invalid, as adopted contrary to law.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Board's refusal to perform consistency reviews of Ord. 22-2022 and Ord. 23-2022 was arbitrary, capricious, unreasonable, and unlawful;
- (b) Invalidating Ord. 22-2022 and Ord. 23-2022 as ultra vires and without effect;
- (c) Awarding attorneys' fees, costs of suit and interest; and
- (d) Awarding any and all such other relief as this Court deems equitable and just.

**COUNT IV**

**FAILURE TO COMPLY WITH  
N.J.S.A. 40:55D-62**

206. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

207. Ord. 22-2022 was not drawn with reasonable consideration to the character of each district in the Township of Teaneck and its particular suitability for particular uses and to encourage the most appropriate use of land.

208. Ord. 22-2022 is invalid, as adopted contrary to law.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Township's actions in adopting Ord. 22-2022 were arbitrary, capricious, unreasonable, and unlawful;
- (b) Invalidating Ord. 22-2022 as ultra vires and without effect;
- (c) Awarding attorneys' fees, costs of suit and interest; and
- (d) Awarding any and all such other relief as this Court deems equitable and just.

**COUNT V**

**VIOLATIONS OF THE OPMA**

209. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

210. The Township's actions in adopting Ord. 22-2022 and Ord. 23-2022 were in violation of the OPMA.

211. According to Rule VI (b) of the Township of Teaneck Council Rules of Procedure, as two members of the Council were recused from the participating in the Council's discussions or actions on Ord. 22-2022 and Ord. 23-2022, they were not counted as part of the quorum for the meeting on those ordinances, and the quorum for that part of the meeting consisted of five (5) members of the Council.

212. An Effective Majority of Members of the Council held a surreptitious, secret, closed-session meeting to discuss Ord. 22-2022 and Ord. 23-2022 during a recess at the June 28, 2022 Council meeting.

213. The secret closed-session meeting was conducted without public notice, in violation of the OPMA, including N.J.S.A. 10:4-9.

214. The June 28, 2022 secret closed session meeting, while open to all eligible members of the Council, was not open to the public, in violation of the OPMA, including N.J.S.A. 10:4-12.

215. The Council failed to adopt a resolution adhering to N.J.S.A. 10:4-13 and its requirements for announcing a closed session, in connection with the June 28, 2022 secret closed session meeting.

216. The Township's actions at the June 28, 2022 meeting were in violation of the OPMA, were arbitrary, capricious, unreasonable, unlawful, deprived Plaintiffs of their legal rights, and illegally tainted the public proceedings concerning Ord. 22-2022 and Ord. 23-2022.

217. Ord. 22-2022 and Ord. 23-2022 are invalid, as adopted contrary to law.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Township's actions at the June 28, 2022 meeting concerning Ord. 22-2022 and Ord. 23-2022 were arbitrary, capricious, unreasonable, and unlawful;

- (b) Invalidating Ord. 22-2022 and Ord. 23-2022 and the actions of the Township at its June 28, 2022 meeting concerning Ord. 22-2022 and Ord. 23-2022 as ultra vires and without effect;
- (c) Awarding attorneys' fees, costs of suit and interest; and
- (d) Awarding any and all such other relief as this Court deems equitable and just.

**COUNT VI**

**ILLEGAL GOVERNMENTAL ACTION**

218. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

219. Upon information and belief, on or about April 24, 2021, the then Township Planner, Richard Preiss, sent an email to Katz and Schwartz stating: "why allowing them [HNH] to get their way, imperils the neighborhood, the Township, and most of all the two of you and other members of the council who may be tempted to go along with them."

220. The Township bestowed illegal favoritism on HNH by improperly manipulating the public process that led to the adoption of Ord. 9-2022, Ord. 22-2022 and Ord. 23-2022.

221. Upon information and belief, representatives of HNH initiated substantive discussions with representatives and officials of the Township concerning a plan for the redevelopment of the HNH Property to only benefit HNH.

222. The adoptions of Ord. 9-2022, Ord. 22-2022 and Ord. 23-2022 were intended to improperly bestow a private benefit upon HNH, and was arbitrary, capricious, unreasonable, unconstitutional, and contrary to law.

223. Ord. 22-2022 and Ord. 23-2022 improperly treat the HNH Property more favorably than other properties in the Township of Teaneck.

224. Ord. 22-2022 and Ord. 23-2022 do not maintain a relationship of mutual benefit among different land uses.

225. Ord. 22-2022 and Ord. 23-2022 do not serve the common good or the general welfare.

226. Ord. 22-2022 and Ord. 23-2022 are not compatible with and do not further a legitimate comprehensive land use scheme or plan for the zoning of the Township of Teaneck.

227. Ord. 22-2022 and Ord. 23-2022, and the process by which they were adopted, are contrary to law, including, but not limited to, the provisions and requirements of the MLUL and the OPMA.

228. Ord. 22-2022 and Ord. 23-2022 do not serve the purposes of zoning set forth in the MLUL.

229. In adopting Ord. 22-2022 and Ord. 23-2022, the Township failed to provide adequate reasons in a resolution for acting inconsistent with, and in a manner not designed to effectuate the Land Use Element of the Master Plan.

230. The adoptions of Ord. 22-2022 and Ord. 23-2022 constitute additional examples of improper favorable treatment of HNH and accommodations to HNH by the Township, including improperly allowing violations of the Ordinances and the MLUL to continue to go unabated by HNH, and to allow HNH to dictate and direct with the complicity of the Township HNH's intended current and future development of the HNH Property, all to the detriment of the surrounding neighborhood and the general welfare of the community.

231. Ord. 22-2022 and Ord. 23-2022 inappropriately contemplate the Township conveying real property to HNH without HNH having to pay appropriate legal consideration for same.



232. Ord. 22-2022 and Ord. 23-2022 inappropriately contemplate vacating a portion of a public roadway in favor of HNH, without a traffic study ever having been conducted.

233. HNH's ongoing advocacy for desired zoning regulations was the impetus for implementing Ord. 22-2022 and Ord. 23-2022.

234. The actions of the Township improperly bestowed a private benefit upon HNH.

235. The Township improperly demonstrated favoritism toward HNH to the detriment of the public in adopting Ord. 22-2022 and Ord. 23-2022.

236. The adoptions of Ord. 22-2022 and Ord. 23-2022 were tainted by biased and prejudiced public officials, who knowingly refused to recuse themselves, as required by the LGEL and Code of Ethics.

237. Ord. 22-2022 and Ord. 23-2022 are arbitrary, capricious, unreasonable, unlawful, and confer an improper benefit upon HNH at the expense, and to the detriment, of Plaintiffs and the public.

238. Ord. 22-2022 and Ord. 23-2022 constitute illegal spot zoning.

239. The adoptions of Ord. 22-2022 and Ord. 23-2022 were arbitrary, capricious, unreasonable, and contrary to law.

240. Ord. 22-2022 and Ord. 23-2022 are therefore void, of no effect, and invalid.

241. Ord. 22-2022 and Ord. 23-2022 are to be declared void and without effect.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Township's actions at the June 28, 2022 meeting concerning Ord. 22-2022 and Ord. 23-2022 were arbitrary, capricious, unreasonable, and unlawful;
- (b) Invalidating Ord. 22-2022 and Ord. 23-2022 and the actions of the Township at its June 28, 2022 meeting concerning Ord. 22-2022 and Ord. 23-2022 as ultra vires and without effect;

- (c) Awarding attorneys' fees, costs of suit and interest; and
- (d) Awarding any and all such other relief as this Court deems equitable and just.

**COUNT VII**

**DEPRIVATION OF RIGHTS PURSUANT TO  
THE NEW JERSEY CONSTITUTION,  
N.J.S.A. 10:6-1, et seq.**

242. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

243. All actions taken by the Board and the Township were done under color of law.

244. The actions taken by the Board and the Township caused the deprivation of Plaintiffs' due process rights by denying Plaintiffs their Constitutionally protected due process rights to fair and unbiased hearings.

245. Plaintiffs' due process rights were established and well-settled at the time of the deprivations caused by the actions of the Board and the Township.

246. The arbitrary and predetermined findings of the Township and the Board deprived Plaintiffs of their Constitutionally guaranteed rights to due process and a fair hearing.

247. The Board refused to consider in an unbiased and fair manner evidence and legal arguments regarding disqualifying conflicts of interest.

248. The Board knew or should have known that Croonquist suffered a disqualifying conflict of interest.

249. The Board knew or should have known that Schwartz suffered a disqualifying conflict of interest.

250. The Board knew or should have known that Eyerman suffered a disqualifying conflict of interest.

251. The Board failed to act in good faith.

252. The Township refused to consider in an unbiased and fair manner evidence and legal arguments regarding disqualifying conflicts of interest, illegal spot zoning, and the Protest Petition.

253. The Township knew or should have known it was denying Plaintiffs their right to publicly comment in violation of the OPMA and N.J.S.A. 40:49-2.

254. The Township and the Board manipulated the public process to avoid the required consistency reviews on Ord. 22-2022 and Ord. 23-2022, in violation of law.

255. The Township manipulated the public process and vote on Ord. 22-2022 and Ord. 23-2022 in violation of law.

256. The Township knew or should have known that Katz suffered a disqualifying conflict of interest.

257. The Township knew or should have known that Dunleavy suffered a disqualifying conflict of interest.

258. The Township failed to act in good faith.

259. All attempts to obtain a fair hearing by Plaintiffs were futile due to the predetermined actions and decisions by the Board and Township.

260. The procedures, actions, and decisions of the Board and the Township which deprived Plaintiffs of their due process rights demonstrate egregious government misconduct that shocks the conscience.

261. The procedures, actions, and decisions of the Board and the Township resulting in the deprivation of Plaintiffs' rights were arbitrary, capricious, unreasonable, and a manifest abuse of power.

262. The procedures, actions, and decisions of the Township in approving Ord. 22-2022 and Ord. 23-2022 were arbitrary, capricious, unreasonable, and a manifest abuse of power.

263. The actions of the Board and the Township constitute final decisions by the respective municipal bodies.

264. Plaintiffs reasonably expected to have the Defendants and its officials, employees and agents, as government officials, exercise its duty to properly act to protect Plaintiffs' constitutional due process, equal protection and property rights.

265. The actions of the Defendants and their officials, officers, employees, and agents, regarding Ord. 22-2022 and Ord. 23-2022 were not logically or legally supportable, were arbitrary, capricious and unreasonable, were an abuse of discretion, and constitute a denial of the property and liberty rights of the Plaintiffs under color of state law and in violation of the Constitution of New Jersey and the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 *et seq.* (the "NJ CRA").

266. Having acted without lawful warrant under color of state laws to deprive Plaintiffs of their constitutional rights, the Defendants are liable to Plaintiffs under the NJ CRA and the New Jersey Constitution.

267. Plaintiffs were deprived of their rights to due process and equal protection and were denied their right to fair and unbiased proceedings by the Board's and the Township's actions in furtherance of their illegal campaign to adopt Ord. 22-2022 and Ord. 23-2022.

268. Said actions of Defendants rendered the Township's findings as to Ord. 22-2022 and Ord. 23-2022 and any other ordinances adopted in furtherance of same, as invalid, arbitrary, capricious, and contrary to law.

269. Plaintiffs are without alternative relief, administrative or otherwise, and therefore resort to intervention by the Court.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that Defendants' actions resulted in an intentional deprivation of Plaintiffs' rights;

- (b) Finding that Katz, Schwartz, Dunleavy, Croonquist, and Eyerman suffered disqualifying conflicts of interest;
- (c) Enjoining and restraining Katz, Schwartz, Dunleavy, Croonquist, and Eyerman from further participation in any proceeding involving Ord. 9-2022, Ord. 22-2022, Ord. 23-2022 or the HNH Property;
- (d) Invalidating the actions of the Board at its December 16, 2021 meeting as to amendment of the Master Plan as ultra vires and without effect;
- (e) Invalidating the actions of the Township at its June 28, 2022 meeting as to Ord. 22-2022 and Ord. 23-2022 as ultra vires and without effect;
- (f) Invalidating Ord. 9-2022, Ord. 22-2022 and Ord. 23-2022;
- (g) Awarding damages pursuant to N.J.S.A. 10:6-1, *et seq.*;
- (h) Awarding reasonable attorney's fees and expert fees pursuant to N.J.S.A. 10:6-2(f);
- (i) Awarding attorneys' fees, costs of suit and interest; and
- (j) Awarding any and all such other relief as this Court deems equitable and just.

HEROLD LAW, P.A.  
*Attorneys for Plaintiffs*

By: /s/ Robert F. Simon  
Robert F. Simon

Dated: August 10, 2022

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, Robert F. Simon, Esq. is hereby designated as trial counsel for Plaintiffs.

HEROLD LAW, P.A.  
*Attorneys for Plaintiffs*

By: /s/ Robert F. Simon  
Robert F. Simon

Dated: August 10, 2022

**CERTIFICATION PURSUANT TO RULE 4:5-1**

I hereby certify that there are no related matters currently pending in any Court of competent jurisdiction other than an action with Docket No. BER-L-0002234-22 pending in Superior Court, Law Division, Bergen County. I further certify that I know of no other parties who should be joined in this matter at the present time, other than possibly Holy Name Hospital, Inc. given the Court's Order permitting Intervention of said party in said litigation with Docket No. BER-L-0002234-22 pending in Superior Court, Law Division, Bergen County.

HEROLD LAW, P.A.  
*Attorneys for Plaintiffs*

By: /s/ Robert F. Simon  
Robert F. Simon

Dated: August 10, 2022

**CERTIFICATION PURSUANT TO RULE 4:69-4**

I hereby certify that all necessary transcripts of local agency proceedings in this cause have been ordered.

HEROLD LAW, P.A.  
*Attorneys for Plaintiffs*

By: /s/ Robert F. Simon  
Robert F. Simon

Dated: August 10, 2022

# **EXHIBIT B**



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Plaintiffs,

vs.

TOWNSHIP OF TEANECK and TOWNSHIP OF TEANECK PLANNING BOARD,

Defendants.

X SUPERIOR COURT OF NEW JERSEY  
: LAW DIVISION: BERGEN COUNTY

: DOCKET NO.: BER- L-4361-22

: CIVIL ACTION

: **ANSWER AND AFFIRMATIVE**  
: **DEFENSES OF**  
: **TOWNSHIP OF TEANECK**

X

TOWNSHIP OF TEANECK, having its offices at 818 Teaneck Road in the township of Teaneck, County of Bergen, State of New Jersey by way of answer to the Complaint in lieu of prerogative writs says:

**NATURE OF THE ACTION**

1. Defendant is without sufficient knowledge or information to form a belief regarding the nature of plaintiffs' action and leaves plaintiffs to their proofs.
2. Defendant is without sufficient knowledge or information to form a belief regarding the nature of plaintiffs' action and leaves plaintiffs to their proofs.

3. It is admitted that the Township Council adopted Ordinance 9-2022; the remaining allegations set forth in paragraph 3 are neither admitted nor denied as the content of Ordinance 9-2022 speaks for itself.

4. It is admitted that Ordinance 9-2022 is challenged in a Complaint filed under Docket No. BER-L-2234-22; the remaining allegations set forth in paragraph 4 are neither admitted nor denied as the content of said Complaint speaks for itself.

5. It is admitted that the Township Council adopted Ordinance 22-2022, the content of which speaks for itself. The remaining allegations set forth in paragraph 5 are denied.

6. The allegations set forth in paragraph 6 are denied.

7. The allegations set forth in paragraph 7 are denied.

8. The allegations set forth in paragraph 8 are admitted.

9. Defendant lacks sufficient knowledge or information to form a belief regarding ownership and/or control of the real property identified in paragraph 9 and leaves plaintiffs to their proofs.

10. Defendant lacks sufficient knowledge or information to form a belief regarding ownership and/or control of the real property referenced in paragraph 10 and leaves plaintiffs to their proofs.

11. The allegations set forth in paragraph 11 are denied.

12. The allegations set forth in paragraph 12 are denied.

13. Defendant is without sufficient knowledge or information to form a belief regarding the nature of relief sought by plaintiffs' action and leaves plaintiffs to their proofs.

14. It is admitted that this Court has jurisdiction over the subject matter of plaintiffs' Complaint.

#### **THE PARTIES**

15. It is admitted that the Township of Teaneck is a municipal corporation of the State of New

Jersey with offices at the location identified in paragraph 15 and that members of the Township Council, the Mayor, Deputy Mayors and Township Manager are officials of the municipality. The remaining allegations set forth in paragraph 15 are denied.

16. It is admitted that the Township of Teaneck Planning Board is a municipal agency of the Township of Teaneck. The remaining allegations set forth in paragraph 10 are denied.

17. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 17 and leaves plaintiffs to their proofs.

18. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 18 and leaves plaintiffs to their proofs.

19. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 19 and leaves plaintiffs to their proofs.

20. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 20 and leaves plaintiffs to their proofs.

21. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 21 and leaves plaintiffs to their proofs.

22. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 22 and leaves plaintiffs to their proofs.

23. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 23 and leaves plaintiffs to their proofs.

24. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 24 and leaves plaintiffs to their proofs.

**RELEVANT FACTS**

25. Defendant lacks sufficient knowledge or information to form a belief regarding the

allegations set forth in paragraph 25 and leaves plaintiffs to their proofs.

26. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 26 and leaves plaintiffs to their proofs.

27. It is admitted that on occasions between 2019 and 2022 representatives of Holy Name Medical Center informed representatives of the Township of Teaneck of the medical center's desire to expand its operations. The remaining allegations set forth in paragraph 27 are denied.

28. It is admitted that the Council formed a subcommittee to address matters pertaining to Holy Name Medical Center. The remaining allegations set forth in paragraph 28 are denied.

29. The allegations set forth in paragraph 29 are admitted.

30. The allegations set forth in paragraph 30 are denied.

31. The allegations set forth in paragraph 31 are admitted.

32. It is admitted that Deputy Mayor Katz and Deputy Mayor Schwartz were members of the Township Council subcommittee. The remaining allegations set forth in paragraph 32 are denied.

33. Upon information and belief, the allegations set forth in paragraph 33 are denied.

34. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 34 and leaves plaintiffs to their proofs.

35. The allegations set forth in paragraph 35 are admitted.

36. Upon information and belief, the allegations set forth in paragraph 36 are admitted.

37. Upon information and belief, the allegations set forth in paragraph 37 are admitted.

38. The allegations set forth in paragraph 38 are admitted.

39. The allegations set forth in paragraph 39 are denied.

40. The allegations set forth in paragraph 40 are denied.

41. Defendant neither admits nor denies the allegations regarding the Township budget but

relies upon the content the budget, which speaks for itself.

42. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 42 and leaves plaintiffs to their proofs.

43. The allegations set forth in paragraph 43 are denied.

44. The allegations set forth in paragraph 44 are denied.

45. The allegations set forth in paragraph 45 state a legal conclusion to which no response from this defendant is required and plaintiffs are left to their proofs.

46. The allegations set forth in paragraph 46 are denied.

47. The allegations set forth in paragraph 47 are denied.

48. The allegations set forth in paragraph 48 are denied.

49. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 49 and leaves plaintiffs to their proofs.

50. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 50 and leaves plaintiffs to their proofs.

51. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 51 and leaves plaintiffs to their proofs.

52. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 52 and leaves plaintiffs to their proofs.

53. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 53 and leaves plaintiffs to their proofs.

54. Defendant neither admits nor denies the allegations regarding Resolution 159-2020 but relies upon the content the Resolution, which speaks for itself.

55. The allegations set forth in paragraph 55 are admitted.

56. Defendant neither admits nor denies the allegations regarding Resolution 160-2020 but relies upon the content the Resolution, which speaks for itself.

57. The allegations set forth in paragraph 57 are admitted.

58. The allegations set forth in paragraph 58 are denied.

59. Defendant neither admits nor denies the allegations set forth in paragraph 59 but relies upon the official record of Council's meeting.

60. Defendant admits Special Emergency Directive No. 03-2020 was issued by the Township's Manager and Office of Emergency Management Coordinator on November 17, 2020 and relies upon the content thereof, which speaks for itself.

61. Defendant neither admits nor denies the allegations set forth in paragraph 61 but relies upon the content of Special Emergency Directive No. 03-2020, which speaks for itself.

62. Defendant neither admits nor denies the allegations set forth in paragraph 62 but relies upon the content of Special Emergency Directive No. 03-2020, which speaks for itself.

63. Defendant neither admits nor denies the allegations set forth in paragraph 63 but relies upon the content of Special Emergency Directive No. 03-2020, which speaks for itself.

64. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 64 and leaves plaintiffs to their proofs.

65. Defendant neither admits nor denies the allegations set forth in paragraph 65 but relies upon the official record of Planning Board meeting.

66. Defendant neither admits nor denies the allegations set forth in paragraph 66 but relies upon the official record of Planning Board meeting.

67. Defendant neither admits nor denies the allegations set forth in paragraph 67 but relies upon the content of Special Emergency Directive No. 03-2020, which speaks for itself.

68. Defendant neither admits nor denies the allegations set forth in paragraph 68 but relies upon the content of Special Emergency Directive No. 03-2020, which speaks for itself.

69. Upon information and belief, the allegations set forth in paragraph 69 are denied.

70. Upon information and belief, the allegations set forth in paragraph 70 are denied.

71. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 71 and leaves plaintiffs to their proofs.

72. Defendant neither admits nor denies the allegations set forth in paragraph 72 but relies upon the content of Special Emergency Directive No. 03-2020, which speaks for itself.

73. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 73 and leaves plaintiffs to their proofs.

74. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 74 and leaves plaintiffs to their proofs.

75. Defendant neither admits nor denies the allegations set forth in paragraph 75 but relies upon the content of the permits referenced therein, which speak for themselves.

76. Defendant neither admits nor denies the allegations set forth in paragraph 76 but relies upon the content of Special Emergency Directive No. 03-2020, which speaks for itself.

77. Defendant neither admits nor denies the allegations set forth in paragraph 77 but relies upon the content of the bill and Executive Order referenced therein, which speak for themselves.

78. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 78 and leaves plaintiffs to their proofs.

79. The allegations set forth in paragraph 79 are denied.

80. Defendant neither admits nor denies the allegations set forth in paragraph 80 but relies upon the content of Special Emergency Directive No. 01-2021, which speaks for itself.

81. The allegations set forth in paragraph 81 are denied.

**CONFLICTS OF INTEREST**

82. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 82 and leaves plaintiffs to their proofs.

83. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 83 and leaves plaintiffs to their proofs.

84. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 84 and leaves plaintiffs to their proofs.

85. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 85 and leaves plaintiffs to their proofs.

86. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 86 and leaves plaintiffs to their proofs.

87. Except to admit that Brian Eyerman, Esq. of the law firm Dario, Albert, Metz, Eyerman, Cand, Concannon, Ortiz & Krouse LLC is attorney for the Planning Board, Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 87 and leaves plaintiffs to their proofs.

88. Except to deny the allegation of conflict of interest, defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 88 and leaves plaintiffs to their proofs.

89. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 89 and leaves plaintiffs to their proofs.

90. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 90 and leaves plaintiffs to their proofs.



91. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 91 and leaves plaintiffs to their proofs.

92. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 92 and leaves plaintiffs to their proofs.

93. The allegations set forth in paragraph 93 are denied.

94. Defendant neither admits nor denies the allegations set forth in paragraph 94 but relies upon the content of Ordinances 22-2022 and 23-2022, which speak for themselves.

95. Defendant neither admits nor denies the allegations set forth in paragraph 95 but leaves plaintiffs to their proofs.

96. It is admitted that documents entitled “Protest Petitions” and a Certification of T. Andrew Thomas were delivered to the Township Clerk at the specified date and time by the “Good Neighbors of Teaneck.” The remaining allegations set forth in paragraph 96 are denied.

97. Defendant neither admits nor denies the allegations set forth in paragraph 97 but relies upon the official record of the meeting, which speaks for itself.

98. Except to deny the allegation regarding disqualifying conflicts of interest, defendant neither admits nor denies the allegations set forth in paragraph 98 but relies upon the official record of the meeting, which speaks for itself.

99. Except to deny the allegation regarding disqualifying conflicts of interest, defendant neither admits nor denies the allegations set forth in paragraph 99 but relies upon the official record of the meeting, which speaks for itself.

100. The allegations set forth in paragraph 100 are admitted.

101. Except to deny that all plaintiffs in this action are named plaintiffs in the action filed on April 21, 2022, the allegations set forth in paragraph 101 are admitted.

102. Defendant neither admits nor denies the allegations set forth in paragraph 102 regarding the content of the Complaint bearing Docket No. BER-L-2234-22, which speaks for itself, and Defendant refers to its Answer to said Complaint for defendant's response to the allegations contained in the Complaint.

103. Defendant neither admits nor denies the allegations set forth in paragraph 103 regarding the content of the Complaint bearing Docket No. BER-L-2234-22, which speaks for itself, and Defendant refers to its Answer to said Complaint for defendant's response to the allegations contained in the Complaint.

104. Defendant neither admits nor denies the allegations set forth in paragraph 104 regarding the content of the Complaint bearing Docket No. BER-L-2234-22, which speaks for itself, and Defendant refers to its Answer to said Complaint for defendant's response to the allegations contained in the Complaint.

105. It is admitted that the Council introduced Ordinance 22-2022 on May 17, 2022 which provides, in part, for the repeal of Ordinance 9-2022. The remaining allegations contained in paragraph 105 are denied.

106. Except to deny that any admission was made by the Council, defendant neither admits nor denies the allegations set forth in paragraph 106 and relies upon the content of Ordinance 22-2022, which speaks for itself.

107. Defendant neither admits nor denies the allegations set forth in paragraph 107 but relies upon the official record of the meeting, which speaks for itself.

108. Defendant neither admits nor denies the allegations set forth in paragraph 108 but relies upon the official record of the meeting, which speaks for itself.

109. Defendant neither admits nor denies the allegations set forth in paragraph 109 but relies

upon the official record of the meeting, which speaks for itself.

110. Except to deny all allegations of conflict of interest, Defendant neither admits nor denies the allegations set forth in paragraph 110 but relies upon the official record of the meeting, which speaks for itself.

111. The allegations set forth in paragraph 111 are denied.

112. Defendant neither admits nor denies the allegations set forth in paragraph 112 but relies upon the content of Ordinance 22-2022, which speaks for itself.

113. Defendant neither admits nor denies the allegations set forth in paragraph 113 but relies upon the content of Ordinance 22-2022, which speaks for itself.

114. Defendant neither admits nor denies the allegations set forth in paragraph 114 but relies upon the official record of the meeting and the content of Ordinance 22-2022, which speaks for themselves.

115. Defendant neither admits nor denies the allegations set forth in paragraph 115 but relies upon the official record of the meeting and the content of Ordinance 22-2022, which speaks for themselves.

116. The allegations set forth in paragraph 116 are denied.

117. The allegations set forth in paragraph 117 are denied.

**REFUSAL TO CONDUCT CONSISTENCY REVIEW**

118. The allegations set forth in paragraph 118 are admitted.

119. Defendant neither admits nor denies the allegations set forth in paragraph 119 but relies upon the content of the Township Code, which speaks for itself.

120. It is admitted that Mayor Dunleavy, Kenneth Croonquist and Councilman Schwartz were respectively, Class I, Class II and Class III members of the Planning Board on May 19, 2022. The

remaining allegations set forth in paragraph 120 are denied.

121. Except to rely upon the provisions of N.J.S.A. 40:55D-26(a), the content of which speaks for itself, Defendant denies the allegations set forth in paragraph 121.

122. The allegations set forth in paragraph 122 are not directed at this defendant such that no answer to same is required and defendant leaves plaintiffs to their proofs.

123. The allegations set forth in paragraph 123 are denied.

124. Defendant is without sufficient knowledge or information to form a belief as to truth or falsity of the allegations set forth in paragraph 124 and leaves plaintiffs to their proofs.

125. The allegations set forth in paragraph 125 are denied.

126. It is admitted that documents entitled “Protest Petitions” and a Certification of T. Andrew Thomas were delivered to the Township Clerk at the specified date and time by the “Good Neighbors of Teaneck.” The remaining allegations set forth in paragraph 126 are denied.

127. It is admitted that the Township Council conducted a public hearing on Ordinances 22-2022 and 23-2022 on June 28, 2022. The remaining allegations set forth in paragraph 127 are denied.

128. Defendant neither admits nor denies the allegations set forth in paragraph 128 but relies upon the official record of the meeting, which speaks for itself.

129. Defendant neither admits nor denies the allegations set forth in paragraph 129 but relies upon the official record of the meeting, which speaks for itself.

130. The allegations set forth in paragraph 130 are denied.

131. Defendant neither admits nor denies the allegations set forth in paragraph 131 but relies upon the official record of the meeting, which speaks for itself.

132. Defendant neither admits nor denies the allegations set forth in paragraph 132 but relies

upon the official record of the meeting, which speaks for itself.

133. Defendant neither admits nor denies the allegations set forth in paragraph 133 but relies upon the official record of the meeting, which speaks for itself.

134. The allegations set forth in paragraph 134 are denied.

135. Defendant neither admits nor denies the allegations set forth in paragraph 135 but relies upon the official record of the meeting, which speaks for itself.

136. The allegations set forth in paragraph 136 are denied.

137. Defendant neither admits nor denies the allegations set forth in paragraph 137 but relies upon the official record of the meeting, which speaks for itself.

138. The allegations set forth in paragraph 138 are denied.

139. Defendant neither admits nor denies the allegations set forth in paragraph 139 but relies upon the official record of the meeting, which speaks for itself.

140. Defendant neither admits nor denies the allegations set forth in paragraph 140 but relies upon the official record of the meeting, which speaks for itself.

141. Defendant lacks sufficient knowledge or information regarding the matters of which Mr. Sime was aware and leaves plaintiffs to their proofs. The remaining allegations set forth in paragraph 141 and plaintiffs' characterization of the events which occurred at the meeting are denied.

142. Defendant neither admits nor denies the allegations set forth in paragraph 142 but relies upon the official record of the meeting, which speaks for itself.

143. Defendant neither admits nor denies the allegations set forth in paragraph 143 but relies upon the official record of the meeting, which speaks for itself.

144. Defendant neither admits nor denies the allegations set forth in paragraph 144 but relies

upon the official record of the meeting, which speaks for itself.

145. The allegations, as set forth in paragraph 145, are denied.

146. Defendant neither admits nor denies the allegations set forth in paragraph 146 but relies upon the official record of the meeting, which speaks for itself.

147. Defendant neither admits nor denies the allegations set forth in paragraph 147 but relies upon the official record of the meeting, which speaks for itself.

148. Defendant neither admits nor denies the allegations set forth in paragraph 148 regarding the events which occurred at the meeting but relies upon the official record of the meeting, which speaks for itself. The remaining allegations set forth in paragraph 148, including plaintiffs' characterization of events and interpretation of legal requirements, are denied.

149. The allegations set forth in paragraph 149 are denied.

150. It is admitted that Ordinances 22-2022 and 23-2022 were approved and adopted on June 28, 2022. Defendant neither admits nor denies the remaining allegations set forth in paragraph 150 but relies upon the official record of the meeting, which speaks for itself.

151. The allegations set forth in paragraph 151 are admitted.

152. Defendant neither admits nor denies the allegations regarding the statutory provision set forth in paragraph 152 but relies upon the language of the statute, which speaks for itself.

153. The allegations set forth in paragraph 153 are denied.

154. The allegations set forth in paragraph 154 are denied.

155. Defendant neither admits nor denies the allegations set forth in paragraph 155 but relies upon the official record of the meeting, which speaks for itself.

### **COUNT I**

156. Defendant repeats and realleges its response to each and every allegation made in

paragraphs 1 through 155 and incorporates same herein as if set forth at length.

157. The allegations set forth in paragraph 157 are denied.

158. The allegations set forth in paragraph 158 are denied.

159. The allegations set forth in paragraph 159 are denied.

160. The allegations set forth in paragraph 160 are denied.

161. The allegations set forth in paragraph 161 are denied.

162. The allegations set forth in paragraph 162 are denied.

163. The allegations set forth in paragraph 163 are denied.

164. The allegations set forth in paragraph 164 are denied.

165. The allegations set forth in paragraph 165 are denied.

166. The allegations set forth in paragraph 166 are denied.

167. The allegations set forth in paragraph 167 are denied.

168. The allegations set forth in paragraph 168 are denied.

169. The allegations set forth in paragraph 169 are denied.

170. The allegations set forth in paragraph 170 are denied.

171. The allegations set forth in paragraph 171 are denied.

172. The allegations set forth in paragraph 172 are denied.

WHEREFORE defendant demands judgment dismissing plaintiffs' Complaint in its entirety and awarding defendant such relief as the Court may deem just and equitable, including counsel fees and costs of suit.

## **COUNT II**

173. Defendant repeats and realleges its response to each and every allegation made in paragraphs 1 through 172 and incorporates same herein as if set forth at length.

174. The allegations set forth in paragraph 174 are denied.
175. The allegations set forth in paragraph 175 are denied.
176. The allegations set forth in paragraph 176 are denied.
177. The allegations set forth in paragraph 177 are denied.
178. The allegations set forth in paragraph 178 are denied.
179. The allegations set forth in paragraph 179 are denied.
180. The allegations set forth in paragraph 180 are denied.
181. The allegations set forth in paragraph 181 are denied.
182. The allegations set forth in paragraph 182 are denied.
183. The allegations set forth in paragraph 183 are denied.
184. The allegations set forth in paragraph 184 are denied.
185. The allegations set forth in paragraph 185 are denied.
186. The allegations set forth in paragraph 186 are denied.
187. The allegations set forth in paragraph 187 are denied.
188. The allegations set forth in paragraph 188 are denied.

WHEREFORE defendant demands judgment dismissing plaintiffs' Complaint in its entirety and awarding defendant such relief as the Court may deem just and equitable, including counsel fees and costs of suit.

### **COUNT III**

189. Defendant repeats and realleges its response to each and every allegation made in paragraphs 1 through 188 and incorporates same herein as if set forth at length.
190. Defendant neither admits nor denies the allegations regarding the statutory provision set forth in paragraph 190 but relies upon the language of the statute, which speaks for itself.



191. Defendant neither admits nor denies the allegations regarding the statutory provision set forth in paragraph 191 but relies upon the language of the statute, which speaks for itself.

192. The allegations set forth in paragraph 145 are admitted.

193. The allegations set forth in paragraph 193 are denied.

194. The allegations set forth in paragraph 194 are not directed at this defendant such that no answer to same is required and defendant leaves plaintiffs to their proofs.

195. The allegations set forth in paragraph 195 are denied.

196. Defendant is without sufficient knowledge or information to form a belief as to truth or falsity of the allegations set forth in paragraph 196 and leaves plaintiffs to their proofs.

197. Defendant neither admits nor denies the allegations regarding the statutory provision set forth in paragraph 197 but relies upon the language of the statute, which speaks for itself.

198. The allegations set forth in paragraph 198 are denied.

199. The allegations set forth in paragraph 199 are denied.

200. Defendant neither admits nor denies the allegations regarding the statutory provision set forth in paragraph 197 but relies upon the language of the statute, which speaks for itself. The remaining allegations set forth in paragraph 200 are denied.

201. The allegations set forth in paragraph 201 are denied.

202. The allegations set forth in paragraph 202 are denied.

203. The allegations set forth in paragraph 203 are denied.

204. The allegations set forth in paragraph 204 are denied.

205. The allegations set forth in paragraph 205 are denied.

WHEREFORE defendant demands judgment dismissing plaintiffs' Complaint in its entirety and awarding defendant such relief as the Court may deem just and equitable, including

counsel fees and costs of suit.

**COUNT IV**

206. Defendant repeats and realleges its response to each and every allegation made in paragraphs 1 through 205 and incorporates same herein as if set forth at length.

207. The allegations set forth in paragraph 207 are denied.

208. The allegations set forth in paragraph 208 are denied.

WHEREFORE defendant demands judgment dismissing plaintiffs' Complaint in its entirety and awarding defendant such relief as the Court may deem just and equitable, including counsel fees and costs of suit.

**COUNT V**

209. Defendant repeats and realleges its response to each and every allegation made in paragraphs 1 through 208 and incorporates same herein as if set forth at length.

210. The allegations set forth in paragraph 210 are denied.

211. The allegations set forth in paragraph 211 are denied.

212. The allegations set forth in paragraph 212 are denied.

213. The allegations set forth in paragraph 213 are denied.

214. The allegations set forth in paragraph 214 are denied.

215. The allegations set forth in paragraph 215 are denied.

216. The allegations set forth in paragraph 216 are denied.

217. The allegations set forth in paragraph 217 are denied.

WHEREFORE defendant demands judgment dismissing plaintiffs' Complaint in its entirety and awarding defendant such relief as the Court may deem just and equitable, including counsel fees and costs of suit.

**COUNT VI**

218. Defendant repeats and realleges its response to each and every allegation made in paragraphs 1 through 217 and incorporates same herein as if set forth at length.

219. The allegations set forth in paragraph 157 are denied.

220. The allegations set forth in paragraph 220 are denied.

221. The allegations set forth in paragraph 221 are denied.

222. The allegations set forth in paragraph 222 are denied.

223. The allegations set forth in paragraph 223 are denied.

224. The allegations set forth in paragraph 224 are denied.

225. The allegations set forth in paragraph 225 are denied.

226. The allegations set forth in paragraph 226 are denied.

227. The allegations set forth in paragraph 227 are denied.

228. The allegations set forth in paragraph 228 are denied.

229. The allegations set forth in paragraph 229 are denied.

230. The allegations set forth in paragraph 230 are denied.

231. The allegations set forth in paragraph 231 are denied.

232. The allegations set forth in paragraph 232 are denied.

233. The allegations set forth in paragraph 233 are denied.

234. The allegations set forth in paragraph 234 are denied.

235. The allegations set forth in paragraph 235 are denied.

236. The allegations set forth in paragraph 236 are denied.

237. The allegations set forth in paragraph 237 are denied.

238. The allegations set forth in paragraph 238 are denied.

239. The allegations set forth in paragraph 239 are denied.

240. The allegations set forth in paragraph 240 are denied.

241. The allegations set forth in paragraph 241 are denied.

WHEREFORE defendant demands judgment dismissing plaintiffs' Complaint in its entirety and awarding defendant such relief as the Court may deem just and equitable, including counsel fees and costs of suit.

**COUNT VII**

242. Defendant repeats and realleges its response to each and every allegation made in paragraphs 1 through 241 and incorporates same herein as if set forth at length.

243. Defendant admits that, when it takes official action, the Township Council acts under color of law.

244. The allegations set forth in paragraph 244 are denied.

245. Defendant admits that plaintiffs and each of them have certain guaranteed rights to due process but denies that any action by defendant deprived plaintiffs or any of them of any such right.

246. The allegations set forth in paragraph 246 are denied.

247. The allegations set forth in paragraph 247 are denied.

248. The allegations set forth in paragraph 248 are denied.

249. The allegations set forth in paragraph 249 are denied.

250. The allegations set forth in paragraph 250 are denied.

251. The allegations set forth in paragraph 251 are denied.

252. The allegations set forth in paragraph 252 are denied.

253. The allegations set forth in paragraph 253 are denied.

254. The allegations set forth in paragraph 254 are denied.
255. The allegations set forth in paragraph 255 are denied.
256. The allegations set forth in paragraph 256 are denied.
257. The allegations set forth in paragraph 257 are denied.
258. The allegations set forth in paragraph 258 are denied.
259. The allegations set forth in paragraph 25 are denied.
260. The allegations set forth in paragraph 260 are denied.
261. The allegations set forth in paragraph 261 are denied.
262. The allegations set forth in paragraph 262 are denied.
263. It is admitted that the adoption of Ordinances 22-2022 and 23-2022 is a final action for purposes of review by way of action in lieu of prerogative writs. The remaining allegations set forth in paragraph 263 are denied.
264. The allegations set forth in paragraph 264 are admitted.
265. The allegations set forth in paragraph 265 are denied.
266. The allegations set forth in paragraph 266 are denied.
267. The allegations set forth in paragraph 267 are denied.
268. The allegations set forth in paragraph 268 are denied.
269. The allegations set forth in paragraph 269 are denied.

WHEREFORE defendant demands judgment dismissing plaintiffs' Complaint in its entirety and awarding defendant such relief as the Court may deem just and equitable, including counsel fees and costs of suit.

**AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a claim upon which relief can be granted.

2. Plaintiffs' claims, in whole or in part, are barred by the applicable statute of limitations.
3. Plaintiffs and each of them lack standing to assert the claim(s) made.
4. Plaintiffs' claims, in whole or in part, are barred by the doctrine of waiver.
5. Plaintiffs' claims, in whole or in part, are barred by the doctrine of laches.
6. Plaintiffs' claims, in whole or in part, are barred by the doctrine estoppel.
7. Plaintiffs' claims, in whole or in part, are not ripe.
8. The relief sought by plaintiffs is barred by the doctrine of necessity.
9. The relief sought by plaintiffs is barred by the doctrine of unclean hands.
10. Plaintiffs' claims, in whole or in part, are nonjusticiable on the grounds of mootness.

**DIKTAS GILLEN P.C.**

Attorneys for Defendant  
Township of Teaneck

BY: 

CHRISTOS J. DIKTAS, ESQ.

BY: 

CHRISTINE GILLEN, ESQ.

DATED: 9/27/22

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:24-4, Christos J. Diktas, Esq. is hereby designated as trial counsel for defendant Township of Teaneck.

**CERTIFICATIONS PURSUANT TO RULE 4:5-1 and RULE 4:6-1**

I hereby certify that there is currently pending in Superior Court of New Jersey, Bergen

County, Law Division an action entitled Akerman, et als. v. Township of Teaneck, et al., under Docket No. BER-L-2234-22 (the “first filed action”) respecting the matter in controversy in this action. Except for that action, there are no other proceedings either pending or contemplated with respect to the matter in controversy in this action. I hereby certify that Holy Name Medical Center was granted leave to intervene in the first filed action; Holy Name Medical Center and the individual municipal officials against whom plaintiffs seek relief, may be subject to joinder in this action.

I hereby certify that this responsive pleading was served upon all counsel of record within the time required by the Rules of Court.

**CERTIFICATION PURSUANT TO RULE 1:38-7**

Confidential personal identifiers have been redacted from any documents now submitted to the Court and will be reacted from all documents submitted in the future as required by Rule 1:38-7.

**DIKTAS GILLEN P.C.**  
Attorneys for Defendant  
Township of Teaneck

BY:   
CHRISTOS J. DIKTAS, ESQ.

BY:   
CHRISTINE GILLEN, ESQ.

DATED: 9/27/22

# **EXHIBIT C**



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MICHAEL AKERMAN; GEORGINA B. ASANTE; YAW ASANTE; DANIEL BELLIN; RENA DONIN SCHLUSSEL; YARON HIRSCHKORN; RACHEL KAYE; ASHIRA LOIKE; MERYL MARK; JOSEPH MARK; ALAN RUBINSTEIN; DAVID SCHLUSSEL; MERYL MARK, JOSEPH MARK; MARC SCHLUSSEL; and SHORANA SCHLUSSEL,

Plaintiffs,

vs.

TOWNSHIP OF TEANECK and TOWNSHIP OF TEANECK PLANNING BOARD,

Defendants.

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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY  
DOCKET NO. BER-L-4361-22

Civil Action

**ANSWER AND AFFIRMATIVE  
DEFENSES**

Defendant, Township of Teaneck and Township of Teaneck Planning Board (hereinafter “Planning Board”), a municipal entity of the County of Bergen, State of New Jersey, doing business at, New Jersey, by their attorneys, by way of Answer to Plaintiff’s Verified Complaint, responds as follows:

**NATURE OF THE ACTION**

1. With regard to the allegations contained in paragraph 1 of the

complaint, Plaintiffs summarize the various causes of action in the complaint and make no specific allegation against this Defendant and as such, this Defendant leaves plaintiffs to their proofs as to the allegations in paragraph 1. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance or any procedural defect or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 1 are denied.

2. With regard to the allegations contained in paragraph 2 of the complaint, Plaintiffs summarize the various causes of action in the complaint and make no specific allegation against this Defendant and as such, this Defendant leaves plaintiffs to their proofs as to the allegations in paragraph 2. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance or any procedural defect or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 2 are denied.

3. It is admitted that the Township Council adopted Ordinance 9-2022; the remaining allegations set forth in paragraph 3 are neither admitted nor denied as the content of Ordinance 9-2022 speaks for itself.

4. It is admitted that Ordinance 9-2022 is challenged in a Complaint filed under Docket No. BER-L-2234-22; the remaining allegations set forth in paragraph 4 are neither admitted nor denied as the content of said Complaint speaks for itself.

5. It is admitted that the Township Council adopted Ordinance 22-2022,

the content of which speaks for itself. The remaining allegations set forth in paragraph 5 are denied.

6. The allegations set forth in paragraph 6 are denied.

7. The allegations set forth in paragraph 7 are denied.

8. The allegations set forth in paragraph 8 are admitted.

9. Defendant lacks sufficient knowledge or information to form a belief regarding ownership and/or control of the real property identified in paragraph 9 and leaves plaintiffs to their proofs.

10. Defendant lacks sufficient knowledge or information to form a belief regarding ownership and/or control of the real property identified in paragraph 10 and leaves plaintiffs to their proofs.

11. The allegations set forth in paragraph 11 are denied.

12. The allegations set forth in paragraph 12 are denied.

13. With regard to the allegations contained in paragraph 13 of the complaint, Plaintiffs summarize the various causes of action in the complaint and make no specific allegation against this Defendant and as such, this Defendant leaves plaintiffs to their proofs as to the allegations in paragraph 13. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance or any procedural defect or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 13 are denied.

14. The allegations set forth in paragraph 14 are denied and this court no longer has jurisdiction over this matter as it is time barred.

### THE PARTIES

15. It is admitted that the Township of Teaneck is a municipal corporation of the State of New Jersey with offices at the location identified in paragraph 15 and that members of the Township Council, the Mayor, Deputy Mayors and Township Manager are officials of the municipality. The remaining allegations set forth in paragraph 15 are denied.

16. It is admitted that the Township of Teaneck Planning Board is a is a duly and properly organized Planning Board of the Township of Teaneck in accordance with the New Jersey Municipal Land Use Law and Township Ordinances. The remaining allegations set forth in paragraph 16 are denied.

17. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 17 and leaves plaintiffs to their proofs.

18. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 18 and leaves plaintiffs to their proofs.

19. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 19 and leaves plaintiffs to their proofs.

20. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 20 and leaves plaintiffs to their proofs.

21. Defendant lacks sufficient knowledge or information to form a

belief regarding the allegations set forth in paragraph 21 and leaves plaintiffs to their proofs.

22. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 22 and leaves plaintiffs to their proofs.

23. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 23 and leaves plaintiffs to their proofs.

24. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 24 and leaves plaintiffs to their proofs.

#### **RELEVANT FACTS**

25. With regard to the allegations contained in paragraph 25 of the complaint, Plaintiffs make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 25 and leaves plaintiffs to their proofs.

26. With regard to the allegations contained in paragraph 26 of the complaint, Plaintiffs make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 26 and leaves plaintiffs to their proofs.

27. It is admitted that on occasions between 2019 and 2022

representatives of Holy Name Medical Center informed representatives of the Township of Teaneck of the medical center's desire to expand its operations. The remaining allegations set forth in paragraph 27 are denied. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 27 are denied.

28. With regard to the allegations contained in paragraph 28 of the complaint, Plaintiffs make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 28 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 28 are denied.

29. With regard to the allegations contained in paragraph 29 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 29 and leaves plaintiffs to their proofs.

30. With regard to the allegations contained in paragraph 30 of the complaint, the allegations set forth in paragraph 30 are denied.

31. The allegations set forth in paragraph 31 are admitted.

32. It is admitted that Deputy Mayor Katz and Deputy Mayor Schwartz were members of the Township Council subcommittee. The remaining allegations set forth in paragraph 32 are denied.

33. With regard to the allegations contained in paragraph 33 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 33 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 33 are denied.

34. With regard to the allegations contained in paragraph 34 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 34 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 34 are denied.

35. With regard to the allegations contained in paragraph 35 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 35 and leaves plaintiffs to their

proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 35 are denied.

36. With regard to the allegations contained in paragraphs 36 - 53 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraphs 36-53 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 36-53 are denied.

37. With regard to the allegations contained in paragraph 54 of the complaint, make no specific allegation against this Defendant and Defendant neither admits nor denies the allegations regarding Resolution 159-2020 but relies upon the content the Resolution, which speaks for itself.

38. With regard to the allegations contained in paragraph 55 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 55 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the



remaining allegations set forth in paragraph 55 are denied.

39. With regard to the allegations contained in paragraph 56, Defendant admits Township Resolution Number 160-2020 was adopted by the Township Governing Body and speaks for itself. This Defendant denies the remaining allegations contained in paragraph 56.

40. With regard to the allegations contained in paragraphs 57-64 of the complaint, the allegations make no specific allegation against this Defendant, editorialize legal documents that speak for themselves and makes legal arguments which are not appropriate for a complaint. Furthermore, Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraphs 57-64 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 57-64 are denied.

41. With regard to the allegations contained in paragraphs 65 of the complaint, this defendant admits that the Board's traffic engineer testified as described in paragraph 65, but the testimony at the hearing was also as to other issues related to traffic and parking. The engineer's testimony is not solely limited to the statement described in paragraph 65 and the Planning Board record speaks for itself.

42. With regard to the allegations contained in paragraph 66, this

defendant admits that Mr. Schwartz participated as a Board member at the March 10, 2022 meeting of the Teaneck Planning Board. The remaining allegations set forth in paragraph 66 are denied.

43. With regard to the allegations contained in paragraph 67 of the complaint, make no specific allegation against this Defendant admits that Township Special Emergency Directive No. 03-2020 was adopted by the Township Governing Body and speaks for itself.

44. With regard to the allegations contained in paragraphs 68-73 of the complaint, make no specific allegation against this Defendant. Township Special Emergency Directive No. 03-2020 was adopted by the Township Governing Body and speaks for itself. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 68-73 are denied.

45. With regard to the allegations contained in paragraph 74 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 74 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 74 are denied.

46. With regard to the allegations contained in paragraphs 75-81 the allegations make no specific allegation against this Defendant, editorialize legal documents that speak for themselves and makes legal arguments which are not appropriate for a complaint. Furthermore, Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraphs 75-81 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 75-81 are denied.

#### ALLEGED CONFLICTS OF INTEREST

47. With regard to the allegations contained in paragraphs 82-85 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 82-85 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 82-85 is denied.

48. With regard to the allegations contained in paragraph 86 of the complaint, this Defendant admits members Schwartz and Croonquist can affirmative votes at the meeting. The reminder of allegations contained in paragraph 86 are denied.

49. With regard to the allegations contained in paragraph 87 of the complaint, this Defendant admits members Brian Eyerman, Esq. is the board attorney and his firm is correctly identified. The reminder of allegations contained in paragraph 87 are denied.

50. The allegations contained in paragraph 88 are denied.

51. The allegations contained in paragraph 89 are denied.

52. With regard to the allegations contained in paragraph 90 of the complaint, the allegations make legal conclusions and this Defendant denies the existence of existence of any disqualifying conflict of interest. The Board admits it was not aware of any conflict and denies remainder of the allegations in paragraph 90.

53. With regard to the allegations contained in paragraph 91 of the complaint, Defendant admits that the attorney did not recuse himself. The remainder of the allegations in paragraph 91 are denied.

54. Defendant denies the allegations contained in paragraph 92.

55. Defendant denies the allegations contained in paragraph 93.

56. With regard to the allegations contained in paragraphs 94-100 of the complaint, makes no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 94-100 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this

Defendant, the remaining allegations set forth in paragraphs 94-100 are denied.

57. With regard to the allegations contained in paragraph 87 of the complaint, this Defendant admits members Schwartz and Croonquist cast affirmative votes at the meeting. The reminder of allegations contained in paragraph 87 are denied.

58. With regard to the allegations contained in paragraph 100, Defendant admits some of the plaintiffs filed another action under docket BER-L-2234-22 of the complaint.

59. With regard to the allegations contained in paragraph 101 - 105, this count contains a summary of another litigation filed by some of the plaintiffs and said complaint speaks for itself, and the count makes no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraphs 101-105 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 101-105 are denied.

60. With regard to the allegations contained in paragraphs 105-117 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraphs 105-117 and leaves plaintiffs to

their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 105-117 are denied.

61. With regard to the allegations contained in paragraph 118 of the complaint, Defendant admits a referral of Ordinance 23-2022 was made to the planning board. The remainder of the allegations set forth in paragraph 118 are denied.

62. Defendant neither admits nor denies the allegations set forth in paragraph 119 but relies upon the content of the Township Code, which speaks for itself.

63. It is admitted that Mayor Dunleavy, and Councilman Schwartz were respectively, Class I, and Class III members of the Planning Board on May 19, 2022. The remaining allegations set forth in paragraph 120 are denied.

64. The allegations set forth in paragraph 121 mischaracterize the law of the State of New Jersey and the remaining allegations set forth in paragraph are denied.

65. The allegations set forth in paragraph 122 are denied.

66. The allegations set forth in paragraph 123 are denied.

67. The allegations set forth in paragraph 124 are denied.

68. The allegations set forth in paragraph 125 are denied.

69. With regard to the allegations contained in paragraphs 126 of the complaint, make no specific allegation against this Defendant and Defendant

lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 126 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 126 is denied.

70. The allegations set forth in paragraph 127 are denied.

71. With regard to the allegations contained in paragraph 128 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 128 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 128 is denied.

72. With regard to the allegations contained in paragraphs 129-155 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 129-155 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 129-155 is denied.

**WHEREFORE**, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

**FIRST COUNT**

73. This Defendant repeats and reiterates each of the foregoing responses to allegations made in each of the foregoing counts of Plaintiffs' complaint as if set forth at length here.
74. This Defendant denies the allegations set forth in paragraphs 156-157 of the First Count of Plaintiffs' complaint.
75. This Defendant denies the allegations set forth in paragraph 158 of the First Count of Plaintiffs' complaint.
76. This Defendant denies the allegations set forth in paragraph 159 of the First Count of Plaintiffs' complaint.
77. This Defendant denies the allegations set forth in paragraph 161 of the First Count of Plaintiffs' complaint.
78. This Defendant denies the allegations set forth in paragraph 162 of the First Count of Plaintiffs' complaint.
79. This Defendant denies the allegations set forth in paragraph 163 of the First Count of Plaintiffs' complaint.
80. This Defendant denies the allegations set forth in paragraph 164 of the First Count of Plaintiffs' complaint.
81. This Defendant denies the allegations set forth in paragraph 165 of the First Count of Plaintiffs' complaint.



82. This Defendant denies the allegations set forth in paragraph 166 of the First Count of Plaintiffs' complaint.
83. This Defendant denies the allegations set forth in paragraph 167 of the First Count of Plaintiffs' complaint.
84. This Defendant denies the allegations set forth in paragraph 168 of the First Count of Plaintiffs' complaint.
85. This Defendant denies the allegations set forth in paragraph 169 of the First Count of Plaintiffs' complaint.
86. This Defendant denies the allegations set forth in paragraph 170 of the First Count of Plaintiffs' complaint.
87. This Defendant denies the allegations set forth in paragraph 171 of the First Count of Plaintiffs' complaint.
88. This Defendant denies the allegations set forth in paragraph 172 of the First Count of Plaintiffs' complaint.

**WHEREFORE**, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

**SECOND COUNT**

89. Defendant repeats and reiterates each and every response set forth above, as if set forth at length herein.
90. With regard to the allegations contained in paragraphs 173-182 of the complaint, make no specific allegation against this Defendant. To the extent the allegations are made against this Defendant, this Defendant

denies the allegations contained in paragraphs 173-182.

91. This Defendant denies the allegations set forth in paragraph 183 of the Second Count of Plaintiffs' complaint.
92. This Defendant denies the allegations set forth in paragraph 184 of the Second Count of Plaintiffs' complaint.
93. This Defendant denies the allegations set forth in paragraph 185 of the Second Count of Plaintiffs' complaint.
94. This Defendant denies the allegations set forth in paragraph 186 of the Second Count of Plaintiffs' complaint.
95. This Defendant denies the allegations set forth in paragraph 187 of the Second Count of Plaintiffs' complaint.
96. This Defendant denies the allegations set forth in paragraph 188 of the Second Count of Plaintiffs' complaint.

**WHEREFORE**, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

**THIRD COUNT**

97. Defendant repeats and reiterates each and every response set forth above, as if set forth at length herein.
98. This Defendant denies the allegations set forth in paragraph 189 of the First Count of Plaintiffs' complaint.
99. Defendant neither admits nor denies the allegations regarding the statutory provision set forth in paragraph 190 but relies upon the

language of the statute, which speaks for itself.

100. Defendant neither admits nor denies the allegations regarding the statutory provision set forth in paragraph 191 but relies upon the language of the statute, which speaks for itself.
101. The allegations set forth in paragraph 192 are admitted.
102. This Defendant denies the allegations set forth in paragraph 193 of the Third Count of Plaintiffs' complaint.
103. This Defendant denies the allegations set forth in paragraph 194 of the Third Count of Plaintiffs' complaint.
104. This Defendant denies the allegations set forth in paragraph 195 of the Third Count of Plaintiffs' complaint.
105. This Defendant denies the allegations set forth in paragraph 196 of the Third Count of Plaintiffs' complaint.
106. Defendant neither admits nor denies the allegations regarding the statutory provision set forth in paragraph 197 but relies upon the language of the statute, and New Jersey Case law which speaks for itself.
107. This Defendant denies the allegations set forth in paragraph 198 of the Third Count of Plaintiffs' complaint.
108. This Defendant denies the allegations set forth in paragraph 199 of the Third Count of Plaintiffs' complaint.
109. This Defendant denies the allegations set forth in paragraph 200 of the Third Count of Plaintiffs' complaint.

110. This Defendant denies the allegations set forth in paragraph 201 of the Third Count of Plaintiffs' complaint.

111. This Defendant denies the allegations set forth in paragraph 202 of the Third Count of Plaintiffs' complaint.

112. This Defendant denies the allegations set forth in paragraph 203 of the Third Count of Plaintiffs' complaint.

113. This Defendant denies the allegations set forth in paragraph 204 of the Third Count of Plaintiffs' complaint.

114. This Defendant denies the allegations set forth in paragraph 205 of the Third Count of Plaintiffs' complaint.

**WHEREFORE**, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

#### **FOURTH COUNT**

115. Defendant repeats and reiterates each and every response set forth above, as if set forth at length herein.

116. This Defendant denies the allegations set forth in paragraphs 206-207 of the Fourth Count of Plaintiffs' complaint.

117. This Defendant denies the allegations set forth in paragraph 208 of the Fourth Count of Plaintiffs' complaint.

**WHEREFORE**, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

**FIFTH COUNT**

118. Defendant repeats and reiterates each and every response set forth above, as if set forth at length herein.
119. With regard to the allegations contained in paragraphs 209-217 of the complaint, make no specific allegation against this Defendant. To the extent the allegations are made against this Defendant, this Defendant denies the allegations contained in paragraphs 209-217.

**WHEREFORE**, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

**SIXTH COUNT**

120. Defendant repeats and reiterates each and every response set forth above, as if set forth at length herein.
121. With regard to the allegations contained in paragraphs 218-220 of the complaint, make no specific allegation against this Defendant. To the extent the allegations are made against this Defendant, this Defendant denies the allegations contained in paragraphs 218-220.
122. This Defendant denies the allegations set forth in paragraph 221 of the Sixth Count of Plaintiffs' complaint.
123. This Defendant denies the allegations set forth in paragraph 222 of the Sixth Count of Plaintiffs' complaint.
124. This Defendant denies the allegations set forth in paragraph 223 of the Sixth Count of Plaintiffs' complaint.

125. This Defendant denies the allegations set forth in paragraph 224 of the Sixth Count of Plaintiffs' complaint.
126. This Defendant denies the allegations set forth in paragraph 225 of the Sixth Count of Plaintiffs' complaint.
127. This Defendant denies the allegations set forth in paragraph 226 of the Sixth Count of Plaintiffs' complaint.
128. This Defendant denies the allegations set forth in paragraph 227 of the Sixth Count of Plaintiffs' complaint.
129. This Defendant denies the allegations set forth in paragraph 228 of the Sixth Count of Plaintiffs' complaint.
130. This Defendant denies the allegations set forth in paragraph 229 of the Sixth Count of Plaintiffs' complaint.
131. This Defendant denies the allegations set forth in paragraph 230 of the Sixth Count of Plaintiffs' complaint.
132. This Defendant denies the allegations set forth in paragraph 231 of the Sixth Count of Plaintiffs' complaint.
133. With regard to the allegations contained in paragraphs 232-235 of the complaint, make no specific allegation against this Defendant. To the extent the allegations are made against this Defendant, this Defendant denies the allegations contained in paragraphs 232-235.
134. This Defendant denies the allegations set forth in paragraph 236 of the Sixth Count of Plaintiffs' complaint.
135. This Defendant denies the allegations set forth in paragraph 237 of

# **EXHIBIT D**

Michael R. Yellin – Atty ID #014712008  
Michael C. Klauder – Atty ID #086632014

**COLE SCHOTZ P.C.**

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Attorneys for Proposed Intervenor, Holy Name Medical Center, Inc.

MICHAEL AKERMAN, GEORGINA B. ASANTE, YAW ASANTE, DANIEL BELLIN, RENA DONIN SCHLUSSEL, YARON HIRSCHKORN, RACHEL KAYE, ASHIRA LOIKE, MERYL MARK, JOSEPH MARK, ALAN RUBINSTEIN, DAVID SCHLUSSEL, MARC SCHLUSSEL, and SHORANA SCHLUSSEL,

Plaintiffs,

v.

TOWNSHIP OF TEANECK and  
TOWNSHIP OF TEANECK PLANNING  
BOARD,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY  
DOCKET NO. BER-L-4361-22

Civil Action

**INTERVENOR HOLY NAME MEDICAL  
CENTER, INC.’S ANSWER AND  
AFFIRMATIVE DEFENSES TO  
COMPLAINT IN LIEU OF  
PREROGATIVE WRITS**

Intervenor, Holy Name Medical Center, Inc. (“HNH”), by and through its counsel, Cole Schotz P.C., hereby answers the Complaint in Lieu of Prerogative Writs filed by plaintiffs Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schlusssel, Yaron Hirschhorn, Rachel Kaye, Ashire Loike, Meryln Mark, Joseph Mark, Alan Rubinstein, David Schlusssel, Marc Schlusssel, and Shorana Shorana Schlusssel (collectively “Plaintiffs”) that was originally filed against defendants Township of Teaneck (“Township”) and Township of Teaneck Planning Board (the “Board”) (collectively, “Defendants”), and states as follows:



**AS TO THE NATURE OF ACTION**

1. In response to Paragraph 1 of the Complaint, HNH refers to the Complaint and denies the allegations in Paragraph 1 to the extent they are inconsistent with the Complaint. To the extent the allegations in Paragraph 1 are not intended to merely recite the nature of Plaintiffs' claims, but rather to assert any substantive allegations, the allegations are denied.

2. In response to Paragraph 2 of the Complaint, HNH refers to the Complaint and denies the allegations in Paragraph 2 to the extent they are inconsistent with the Complaint. To the extent the allegations in Paragraph 2 are not intended to merely recite the nature of Plaintiffs' claims, but rather to assert any substantive allegations, the allegations are denied.

3. In response to Paragraph 3 of the Complaint, HNH refers to the referenced Ordinance 9-2022 ("Ord. 9-2022") and denies the allegations to the extent they are inconsistent with Ord. 9-2022.

4. HNH admits that Plaintiffs filed a Complaint in Lieu of Prerogative Writs, Docket No. BER-L-2234-22, challenging Ord. 9-2022, but denies that impermissible conflicts of interest required the invalidation of Ord. 9-2022.

5. HNH admits that the Township introduced and subsequently adopted Ord. 22-2022, the contents of which speak for itself. HNH denies the remaining allegations in Paragraph 5 of the Complaint.

6. HNH denies the allegations in Paragraph 6 of the Complaint.

7. In response to Paragraph 7 of the Complaint, HNH refers to Ord. 22-2022 and denies the allegations to the extent they are inconsistent with Ord. 22-2022.

8. HNH admits the allegations in Paragraph 8 of the Complaint.

9. In response to Paragraph 9 of the Complaint, HNH refers to the Ord. 9-2022 and Ord. 22-2022 and denies the allegations in Paragraph 9 to the extent they are inconsistent with the referenced ordinances.

10. HNH admits the allegations in Paragraph 10 of the Complaint.

11. HNH denies the allegations in Paragraph 11 of the Complaint.

12. HNH denies the allegations in Paragraph 12 of the Complaint.

13. In response to Paragraph 13 of the Complaint, HNH refers to the Complaint and denies the allegations to the extent they are inconsistent with the Complaint. To the extent the allegations in Paragraph 13 are not intended to merely recite the nature of Plaintiffs' claims, but rather to assert any substantive allegations, those allegations are denied.

14. Paragraph 14 of the Complaint contains a legal conclusion to which no response is required, and Plaintiffs are left to their proofs with respect to same.

**AS TO THE PARTIES**

15. HNH admits the allegations in Paragraph 15 of the Complaint.

16. HNH admits the allegations in Paragraph 16 of the Complaint.

17. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 17 of the Complaint and leaves Plaintiffs to their proofs.

18. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 18 of the Complaint and leaves Plaintiffs to their proofs.

19. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 19 of the Complaint and leaves Plaintiffs to their proofs.

20. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 20 of the Complaint and leaves Plaintiffs to their proofs.

21. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 21 of the Complaint and leaves Plaintiffs to their proofs.

22. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 22 of the Complaint and leaves Plaintiffs to their proofs.

23. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 23 of the Complaint and leaves Plaintiffs to their proofs.

24. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 24 of the Complaint and leaves Plaintiffs to their proofs.

**AS TO THE RELEVANT FACTS**

25. HNH admits that at certain points in time during its existence and operation it has sought to expand its buildings, structures and facilities, including, if necessary, through redevelopment. HNH denies the remaining allegations in Paragraph 25 of the Complaint.

26. HNH admits that it has, directly or indirectly, purchased the properties that currently comprise the HNH Property (as that term is defined in the Complaint). HNH denies the remaining allegations in Paragraph 26 of the Complaint.

27. HNH admits that on certain occasions between 2019 and 2022, it informed Defendants' representatives that HNH desired to expand its operations. HNH denies the remaining allegations in Paragraph 27 of the Complaint.

28. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 28 of the Complaint and leaves Plaintiffs to their proofs.

29. HNH admits that Katz is the First Deputy Mayor of the Township and a Member of Council, but lacks sufficient knowledge or information to form a belief regarding the remaining allegations in Paragraph 29 of the Complaint and leaves Plaintiffs to their proofs.

30. HNH denies the allegations in Paragraph 30 of the Complaint.

31. HNH admits that Schwartz is the Second Deputy Mayor of the Township and a Member of the Council, but lacks sufficient knowledge or information to form a belief regarding the remaining allegations in Paragraph 31 of the Complaint and leaves Plaintiffs to their proofs.

32. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 32 of the Complaint and leaves Plaintiffs to their proofs.

33. HNH admits that it previously purchased advertising in the Jewish Link. HNH denies the remaining allegations in Paragraph 33 of the Complaint.

34. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 34 of the Complaint and leaves Plaintiffs to their proofs.

35. HNH admits that Orgen is a Member of the Council, but lacks sufficient knowledge or information to form a belief regarding the remaining allegations in Paragraph 35 of the Complaint and leaves Plaintiffs to their proofs.

36. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 36 of the Complaint and leaves Plaintiffs to their proofs.

37. HNH admits that it hired one of Orgen's children, which, to the best of HNH's knowledge and belief is the reason that Orgen recused herself from the vote.

38. HNH admits the allegations in Paragraph 38 of the Complaint.

39. HNH denies the allegations in Paragraph 39 of the Complaint.

40. HNH denies the allegations in Paragraph 40 of the Complaint.

41. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 41 of the Complaint and leaves Plaintiffs to their proofs.

42. HNH denies the allegations in Paragraph 42 of the Complaint.

43. HNH denies the allegations in Paragraph 43 of the Complaint.

44. HNH denies the allegations in Paragraph 44 of the Complaint.

45. Paragraph 45 of the Complaint contains a legal conclusion to which no response is required, and Plaintiffs are left to their proofs with respect to same.

46. HNH denies the allegations in Paragraph 46 of the Complaint.

47. HNH denies the allegations in Paragraph 47 of the Complaint.

48. HNH denies the allegations in Paragraph 48 of the Complaint.

49. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 49 of the Complaint and leaves Plaintiffs to their proofs.

50. HNH admits that it entered into a contract to purchase certain property located at Block 3002, Lot 6 in Teaneck and refers to the purchase contract for a true and accurate account of its contents. To the extent the allegations in Paragraph 50 of the Complaint are inconsistent with the purchase contract, those allegations are denied.

51. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 51 of the Complaint and leaves Plaintiffs to their proofs.

52. HNH admits that it closed on the purchase of the referenced property on or about July 20, 2020. HNH denies the remaining allegations in Paragraph 52 of the Complaint.

53. HNH admits that Schwartz introduced HNH to Yavneh leadership. HNH denies the remaining allegations in Paragraph 53 of the Complaint.

54. HNH refers to the referenced Resolution 159-2020 for a true and accurate account of its contents. To the extent the allegations in Paragraph 54 of the Complaint are inconsistent with Resolution 159-2020, those allegations are denied.

55. HNH refers to the referenced Resolution 159-2020 for a true and accurate account of its contents. To the extent the allegations in Paragraph 55 of the Complaint are inconsistent with Resolution 159-2020, those allegations are denied.

56. HNH refers to the referenced Resolution 160-2020 for a true and accurate account of its contents. To the extent the allegations in Paragraph 56 of the Complaint are inconsistent with Resolution 160-2020, those allegations are denied.

57. HNH refers to the referenced Resolution 160-2020 for a true and accurate account of its contents. To the extent the allegations in Paragraph 57 of the Complaint are inconsistent with Resolution 160-2020, those allegations are denied.

58. HNH denies the allegations in Paragraph 58 of the Complaint.

59. HNH neither admits nor denies the allegations in Paragraph 59 of Complaint, but relies upon the unofficial record of the referenced Township Council meeting.

60. HNH refers to the referenced Special Emergency Directive No. 03-2020 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 60 of the Complaint are inconsistent with the referenced Special Emergency Directive No. 03-2020, those allegations are denied.

61. HNH refers to the referenced Special Emergency Directive No. 03-2020 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 61 of the Complaint are inconsistent with the referenced Special Emergency Directive No. 03-2020, those allegations are denied.

62. HNH refers to the referenced Special Emergency Directive No. 03-2020 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 62 of the

Complaint are inconsistent with the referenced Special Emergency Directive No. 03-2020, those allegations are denied.

63. HNH refers to the referenced Special Emergency Directive No. 03-2020 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 63 of the Complaint are inconsistent with the referenced Special Emergency Directive No. 03-2020, those allegations are denied.

64. HNH refers to: (i) the referenced Special Emergency Directive No. 03-2020 for a true and accurate accounts of its contents, and (ii) the referend property for a true and accurate account of its boundaries. To the extent the allegations in Paragraph 64 of the Complaint are inconsistent with the referenced Special Emergency Directive and/or the boundaries of the referenced property, those allegations are denied.

65. HNH neither admits nor denies the allegations in Paragraph 65 of Complaint, but relies upon the unofficial record of the referenced Board meeting.

66. HNH neither admits nor denies the allegations in Paragraph 66 of Complaint, but relies upon the unofficial record of the referenced Board meeting.

67. HNH refers to the referenced Special Emergency Directive No. 03-2020 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 67 of the Complaint are inconsistent with the referenced Special Emergency Directive No. 03-2020, those allegations are denied.

68. HNH refers to the referenced Special Emergency Directive No. 03-2020 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 68 of the Complaint are inconsistent with the referenced Special Emergency Directive No. 03-2020, those allegations are denied.

69. HNH denies the allegations in Paragraph 69 of the Complaint.

70. HNH denies the allegations in Paragraph 70 of the Complaint.

71. HNH refers to the referenced Zoning Permits for a true and accurate accounts of their contents. To the extent the allegations in Paragraph 71 of the Complaint are inconsistent with the referenced Zoning Permits, those allegations are denied.

72. HNH refers to the referenced Special Emergency Directive No. 03-2020 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 72 of the Complaint are inconsistent with the referenced Special Emergency Directive No. 03-2020, those allegations are denied.

73. HNH denies the allegations in Paragraph 73 of the Complaint.

74. HNH refers to the referenced Zoning Permits for a true and accurate accounts of their contents. To the extent the allegations in Paragraph 74 of the Complaint are inconsistent with the referenced Zoning Permits, those allegations are denied.

75. HNH refers to the referenced Zoning Permits for a true and accurate accounts of their contents. To the extent the allegations in Paragraph 75 of the Complaint are inconsistent with the referenced Zoning Permits, those allegations are denied.

76. HNH refers to the referenced Special Emergency Directive No. 03-2020 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 76 of the Complaint are inconsistent with the referenced Special Emergency Directive No. 03-2020, those allegations are denied.

77. HNH refers to the referenced Assembly Bill No. 5820 and Executive Order No. 244 for a true and accurate accounts of their contents. To the extent the allegations in Paragraph



77 of the Complaint are inconsistent with the referenced Assembly Bill No. 5820 and/or Executive Order No. 244, those allegations are denied.

78. HNH refers to the referenced Assembly Bill No. 5820 and Executive Order No. 244 for a true and accurate accounts of their contents. To the extent the allegations in Paragraph 78 of the Complaint are inconsistent with the referenced Assembly Bill No. 5820 and/or Executive Order No. 244, those allegations are denied. By way of further response, HNH states that Paragraph 78 of the Complaint contains a legal conclusion to which no response is required. To the extent a response is required, the allegations in Paragraph 78 are denied.

79. HNH states that Paragraph 79 of the Complaint contains a legal conclusion to which no response is required. To the extent a response is required, the allegations in Paragraph 79 are denied.

80. HNH refers to the referenced Special Emergency Directive No. 01-2021 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 80 of the Complaint are inconsistent with the referenced Special Emergency Directive No. 01-2021, those allegations are denied.

81. HNH states that Paragraph 81 of the Complaint contains a legal conclusion to which no response is required. To the extent a response is required, the allegations in Paragraph 81 are denied.

82. HNH admits the allegations in Paragraph 82 of the Complaint.

83. HNH admits the allegations in Paragraph 83 of the Complaint.

84. HNH refers to the referenced Financial Disclosure Statement for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 84 of the Complaint are inconsistent with the referenced Financial Disclosure Statement, those allegations are denied.

85. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 85 of the Complaint and leaves Plaintiffs to their proofs.

86. HNH admits the allegations in Paragraph 86 of the Complaint.

87. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 87 of the Complaint and leaves Plaintiffs to their proofs.

88. Paragraph 88 of the Complaint contains a legal conclusion to which no response is required, and Plaintiffs are left to their proofs with respect to same.

89. HNH admits the allegations in Paragraph 89 of the Complaint.

90. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 90 of the Complaint and leaves Plaintiffs to their proofs.

91. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 91 of the Complaint and leaves Plaintiffs to their proofs.

92. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 92 of the Complaint and leaves Plaintiffs to their proofs.

93. Paragraph 93 of the Complaint contains a legal conclusion to which no response is required, and Plaintiffs are left to their proofs with respect to same.

94. HNH refers to the referenced Ord. 22-2022 and Ord. 23-2022 for a true and accurate accounts of their contents. To the extent the allegations in Paragraph 94 of the Complaint are inconsistent with the referenced Ord. 22-2022 and/or Ord. 23-2022, those allegations are denied.

95. HNH neither admits nor denies the allegations in Paragraph 95 of Complaint, but relies upon the official record of the referenced Township meeting.

96. HNH admits the allegations in Paragraph 96 of the Complaint.

97. HNH neither admits nor denies the allegations in Paragraph 97 of the Complaint, but instead refers to the official record of the referenced public hearing, which speaks for itself.

98. HNH neither admits nor denies the allegations in Paragraph 98 of the Complaint, but instead refers to the official record of the referenced meeting, which speaks for itself.

99. HNH neither admits nor denies the allegations in Paragraph 99 of the Complaint, but instead refers to the official record of the referenced meeting, which speaks for itself.

100. HNH admits the allegations in Paragraph 100 of the Complaint.

101. HNH admits the allegations in Paragraph 101 of the Complaint.

102. HNH refers to the referenced complaint for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 102 of the Complaint are inconsistent with the referenced complaint, those allegations are denied.

103. HNH refers to the referenced complaint for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 103 of the Complaint are inconsistent with the referenced complaint, those allegations are denied.

104. HNH refers to the referenced complaint for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 104 of the Complaint are inconsistent with the referenced complaint, those allegations are denied.

105. HNH admits that the Council introduced Ord. 22-2022 on May 17, 2022, which provides, in part, for the repeal of Ord. 9-2022. HNH denies the remaining allegations in Paragraph 105 of the Complaint.

106. HNH refers to the referenced Ord. 22-2022 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 106 of the Complaint are inconsistent with the referenced Ord. 22-2022, those allegations are denied.

107. HNH neither admits nor denies the allegations in Paragraph 107 of the Complaint, but instead refers to the official record of the referenced meeting, which speaks for itself.

108. HNH neither admits nor denies the allegations in Paragraph 108 of the Complaint, but instead refers to the official record of the referenced meeting, which speaks for itself.

109. HNH neither admits nor denies the allegations in Paragraph 109 of the Complaint, but instead refers to the official record of the referenced meeting, which speaks for itself.

110. Except to deny the alleged conflicts of interest, HNH neither admits nor denies the allegations in Paragraph 110 of the Complaint, but instead refers to the official record of the referenced meeting, which speaks for itself.

111. HNH refers to the referenced Ord. 22-2022 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 111 of the Complaint are inconsistent with the referenced Ord. 22-2022, those allegations are denied.

112. HNH refers to the referenced Ord. 22-2022 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 112 of the Complaint are inconsistent with the referenced Ord. 22-2022, those allegations are denied.

113. HNH refers to the referenced Ord. 22-2022 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 113 of the Complaint are inconsistent with the referenced Ord. 22-2022, those allegations are denied.

114. HNH refers to the referenced Ord. 22-2022 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 114 of the Complaint are inconsistent with the referenced Ord. 22-2022, those allegations are denied. In further response, HNH refers to the official record of the referenced meeting, which speaks for itself.

115. HNH refers to the referenced Ord. 22-2022 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 115 of the Complaint are inconsistent with the referenced Ord. 22-2022, those allegations are denied. In further response, HNH refers to the official record of the referenced meeting, which speaks for itself.

116. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 116 of the Complaint and leaves Plaintiffs to their proofs.

117. HNH states that Paragraph 117 of the Complaint contains a legal conclusion to which no response is required. To the extent a response is required, the allegations in Paragraph 117 are denied.

118. HNH admits the allegations in Paragraph 118 of the Complaint.

119. HNH refers to the referenced portions of the Teaneck Township Code for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 119 of the Complaint are inconsistent with the referenced portions of the Teaneck Township Code, those allegations are denied.

120. HNH admits that Mayor Dunleavy, Kenneth Croonquist and Councilman Schwartz were respectively, Class I, Class II, and Class III members of the Planning Board on May 19, 2022. HNH denies the remaining allegations in Paragraph 120 of the Complaint.

121. Paragraph 121 of the Complaint contains a legal conclusion to which no response is required, and Plaintiffs are left to their proofs with respect to same.

122. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 122 of the Complaint and leaves Plaintiffs to their proofs.

123. Paragraph 123 of the Complaint contains a legal conclusion to which no response is required, and Plaintiffs are left to their proofs with respect to same.

124. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 124 of the Complaint and leaves Plaintiffs to their proofs.

125. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 125 of the Complaint and leaves Plaintiffs to their proofs.

126. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 126 of the Complaint and leaves Plaintiffs to their proofs.

127. HNH admits that the Township Council conducted a hearing on Ord. 22-2022 and Ord. 23-2022 on June 28, 2022. HNH denies the remaining allegations in Paragraph 127 of the Complaint.

128. HNH neither admits nor denies the allegations in Paragraph 128 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

129. HNH neither admits nor denies the allegations in Paragraph 129 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

130. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 130 of the Complaint and leaves Plaintiffs to their proofs.

131. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 131 of the Complaint and leaves Plaintiffs to their proofs.

132. HNH neither admits nor denies the allegations in Paragraph 132 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

133. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 133 of the Complaint and leaves Plaintiffs to their proofs.

134. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 134 of the Complaint and leaves Plaintiffs to their proofs.

135. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 135 of the Complaint and leaves Plaintiffs to their proofs.

136. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 136 of the Complaint and leaves Plaintiffs to their proofs.

137. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 137 of the Complaint and leaves Plaintiffs to their proofs.

138. HNH denies the allegations in Paragraph 138 of the Complaint.

139. HNH neither admits nor denies the allegations in Paragraph 139 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

140. HNH neither admits nor denies the allegations in Paragraph 140 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

141. HNH lack sufficient knowledge or information regarding the matters of which Mr. Simon was aware and leaves Plaintiffs to their proofs. HNH denies the remaining allegations in Paragraph 141 of the Complaint.

142. HNH neither admits nor denies the allegations in Paragraph 142 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

143. HNH neither admits nor denies the allegations in Paragraph 143 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

144. HNH neither admits nor denies the allegations in Paragraph 144 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

145. Paragraph 145 of the Complaint contains a legal conclusion to which no response is required, and Plaintiffs are left to their proofs with respect to same.

146. HNH neither admits nor denies the allegations in Paragraph 146 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

147. HNH neither admits nor denies the allegations in Paragraph 147 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

148. Other than to deny Plaintiffs' characterization of the events that occurred at the meeting, HNH neither admits nor denies the allegations in Paragraph 148 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

149. HNH denies the allegations in Paragraph 149 of the Complaint.

150. HNH neither admits nor denies the allegations in Paragraph 150 of the Complaint, but instead refers to the official record of the public hearing, which speaks for itself.

151. HNH refers to the referenced Ord. 23-2022 for a true and accurate accounts of its contents. To the extent the allegations in Paragraph 151 of the Complaint are inconsistent with the referenced Ord. 23-2022, those allegations are denied.

152. Paragraph 152 of the Complaint contains a legal conclusion to which no response is required, and Plaintiffs are left to their proofs with respect to same.

153. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 153 of the Complaint and leaves Plaintiffs to their proofs.

154. HNH lacks sufficient knowledge or information to form a belief regarding the allegations in Paragraph 154 of the Complaint and leaves Plaintiffs to their proofs.

155. HNH denies the allegations in Paragraph 155 of the Complaint.

**AS TO THE FIRST COUNT**

156. HNH repeats and realleges the answers contained in the preceding paragraphs as if stated fully herein.

157. HNH denies the allegations in Paragraph 157 of the Complaint.



158. HNH denies the allegations in Paragraph 158 of the Complaint.
159. HNH denies the allegations in Paragraph 159 of the Complaint.
160. HNH denies the allegations in Paragraph 160 of the Complaint.
161. HNH denies the allegations in Paragraph 161 of the Complaint.
162. HNH denies the allegations in Paragraph 162 of the Complaint.
163. HNH denies the allegations in Paragraph 163 of the Complaint.
164. HNH denies the allegations in Paragraph 164 of the Complaint.
165. HNH denies the allegations in Paragraph 165 of the Complaint.
166. HNH denies the allegations in Paragraph 166 of the Complaint.
167. HNH denies the allegations in Paragraph 167 of the Complaint.
168. HNH denies the allegations in Paragraph 168 of the Complaint.
169. HNH denies the allegations in Paragraph 169 of the Complaint.
170. HNH denies the allegations in Paragraph 170 of the Complaint.
171. HNH denies the allegations in Paragraph 171 of the Complaint.
172. HNH denies the allegations in Paragraph 172 of the Complaint.

**WHEREFORE**, Intervenor, Holy Name Medical Center, Inc., hereby demands judgment against plaintiffs Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schlusssel, Yaron Hirschhorn, Rachel Kaye, Ashire Loike, Meryln Mark, Joseph Mark, Alan Rubinstein, David Schlusssel, Marc Schlusssel, and Shorana Shorana Schlusssel, dismissing the Complaint with prejudice and awarding costs of suit and attorneys' fees, as well as awarding such other and further relief as the Court deems equitable and just.

**AS TO THE SECOND COUNT**

173. HNH repeats and realleges the answers contained in the preceding paragraphs as if stated fully herein.

174. HNH denies the allegations in Paragraph 174 of the Complaint.
175. HNH denies the allegations in Paragraph 175 of the Complaint.
176. HNH denies the allegations in Paragraph 176 of the Complaint.
177. HNH denies the allegations in Paragraph 177 of the Complaint.
178. HNH denies the allegations in Paragraph 178 of the Complaint.
179. HNH denies the allegations in Paragraph 179 of the Complaint.
180. HNH denies the allegations in Paragraph 180 of the Complaint.
181. HNH denies the allegations in Paragraph 181 of the Complaint.
182. HNH denies the allegations in Paragraph 182 of the Complaint.
183. HNH denies the allegations in Paragraph 183 of the Complaint.
184. HNH denies the allegations in Paragraph 184 of the Complaint.
185. HNH denies the allegations in Paragraph 185 of the Complaint.
186. HNH denies the allegations in Paragraph 186 of the Complaint.
187. HNH denies the allegations in Paragraph 187 of the Complaint.
188. HNH denies the allegations in Paragraph 188 of the Complaint.

**WHEREFORE**, Intervenor, Holy Name Medical Center, Inc., hereby demands judgment against plaintiffs Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schlusssel, Yaron Hirschhorn, Rachel Kaye, Ashire Loike, Meryln Mark, Joseph Mark, Alan Rubinstein, David Schlusssel, Marc Schlusssel, and Shorana Shorana Schlusssel, dismissing the Complaint with prejudice and awarding costs of suit and attorneys' fees, as well as awarding such other and further relief as the Court deems equitable and just.

**AS TO THE THIRD COUNT**

189. HNH repeats and realleges the answers contained in the preceding paragraphs as if stated fully herein.

190. HNH denies the allegations in Paragraph 190 of the Complaint.
191. HNH denies the allegations in Paragraph 191 of the Complaint.
192. HNH denies the allegations in Paragraph 192 of the Complaint.
193. HNH denies the allegations in Paragraph 193 of the Complaint.
194. HNH denies the allegations in Paragraph 194 of the Complaint.
195. HNH denies the allegations in Paragraph 195 of the Complaint.
196. HNH denies the allegations in Paragraph 196 of the Complaint.
197. HNH denies the allegations in Paragraph 197 of the Complaint.
198. HNH denies the allegations in Paragraph 198 of the Complaint.
199. HNH denies the allegations in Paragraph 199 of the Complaint.
200. HNH denies the allegations in Paragraph 200 of the Complaint.
201. HNH denies the allegations in Paragraph 201 of the Complaint.
202. HNH denies the allegations in Paragraph 202 of the Complaint.
203. HNH denies the allegations in Paragraph 203 of the Complaint.
204. HNH denies the allegations in Paragraph 204 of the Complaint.
205. HNH denies the allegations in Paragraph 205 of the Complaint.

**WHEREFORE**, Intervenor, Holy Name Medical Center, Inc., hereby demands judgment against plaintiffs Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schlusssel, Yaron Hirschorn, Rachel Kaye, Ashire Loike, Meryln Mark, Joseph Mark, Alan Rubinstein, David Schlusssel, Marc Schlusssel, and Shorana Shorana Schlusssel, dismissing the Complaint with prejudice and awarding costs of suit and attorneys' fees, as well as awarding such other and further relief as the Court deems equitable and just.

**AS TO THE FOURTH COUNT**

206. HNH repeats and realleges the answers contained in the preceding paragraphs as if stated fully herein.

207. HNH denies the allegations in Paragraph 207 of the Complaint.

208. HNH denies the allegations in Paragraph 208 of the Complaint.

**WHEREFORE**, Intervenor, Holy Name Medical Center, Inc., hereby demands judgment against plaintiffs Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schlusssel, Yaron Hirsch Korn, Rachel Kaye, Ashire Loike, Meryln Mark, Joseph Mark, Alan Rubinstein, David Schlusssel, Marc Schlusssel, and Shorana Shorana Schlusssel, dismissing the Complaint with prejudice and awarding costs of suit and attorneys' fees, as well as awarding such other and further relief as the Court deems equitable and just.

**AS TO THE FIFTH COUNT**

209. HNH repeats and realleges the answers contained in the preceding paragraphs as if stated fully herein.

210. HNH denies the allegations in Paragraph 210 of the Complaint.

211. HNH denies the allegations in Paragraph 211 of the Complaint.

212. HNH denies the allegations in Paragraph 212 of the Complaint.

213. HNH denies the allegations in Paragraph 213 of the Complaint.

214. HNH denies the allegations in Paragraph 214 of the Complaint.

215. HNH denies the allegations in Paragraph 215 of the Complaint.

216. HNH denies the allegations in Paragraph 216 of the Complaint.

217. HNH denies the allegations in Paragraph 217 of the Complaint.

**WHEREFORE**, Intervenor, Holy Name Medical Center, Inc., hereby demands judgment against plaintiffs Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schlusssel, Yaron Hirsch Korn, Rachel Kaye, Ashire Loike, Meryln Mark, Joseph Mark, Alan

Rubinstein, David Schlusel, Marc Schlusel, and Shorana Shorana Schlusel, dismissing the Complaint with prejudice and awarding costs of suit and attorneys' fees, as well as awarding such other and further relief as the Court deems equitable and just.

**AS TO THE SIXTH COUNT**

218. HNH repeats and realleges the answers contained in the preceding paragraphs as if stated fully herein.

219. HNH denies the allegations in Paragraph 219 of the Complaint.

220. HNH denies the allegations in Paragraph 220 of the Complaint.

221. HNH denies the allegations in Paragraph 221 of the Complaint.

222. HNH denies the allegations in Paragraph 222 of the Complaint.

223. HNH denies the allegations in Paragraph 223 of the Complaint.

224. HNH denies the allegations in Paragraph 224 of the Complaint.

225. HNH denies the allegations in Paragraph 225 of the Complaint.

226. HNH denies the allegations in Paragraph 226 of the Complaint.

227. HNH denies the allegations in Paragraph 227 of the Complaint.

228. HNH denies the allegations in Paragraph 228 of the Complaint.

229. HNH denies the allegations in Paragraph 229 of the Complaint.

230. HNH denies the allegations in Paragraph 230 of the Complaint.

231. HNH denies the allegations in Paragraph 231 of the Complaint.

232. HNH denies the allegations in Paragraph 232 of the Complaint.

233. HNH denies the allegations in Paragraph 233 of the Complaint.

234. HNH denies the allegations in Paragraph 234 of the Complaint.

235. HNH denies the allegations in Paragraph 235 of the Complaint.

236. HNH denies the allegations in Paragraph 236 of the Complaint.

237. HNH denies the allegations in Paragraph 237 of the Complaint.

238. HNH denies the allegations in Paragraph 238 of the Complaint.

239. HNH denies the allegations in Paragraph 239 of the Complaint.

240. HNH denies the allegations in Paragraph 240 of the Complaint.

241. HNH denies the allegations in Paragraph 241 of the Complaint.

**WHEREFORE**, Intervenor, Holy Name Medical Center, Inc., hereby demands judgment against plaintiffs Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schlusssel, Yaron Hirschhorn, Rachel Kaye, Ashire Loike, Meryln Mark, Joseph Mark, Alan Rubinstein, David Schlusssel, Marc Schlusssel, and Shorana Shorana Schlusssel, dismissing the Complaint with prejudice and awarding costs of suit and attorneys' fees, as well as awarding such other and further relief as the Court deems equitable and just.

**AS TO THE SEVENTH COUNT**

242. HNH repeats and realleges the answers contained in the preceding paragraphs as if stated fully herein.

243. HNH admits the allegations in Paragraph 243 of the Complaint.

244. HNH denies the allegations in Paragraph 244 of the Complaint.

245. HNH denies the allegations in Paragraph 245 of the Complaint.

246. HNH denies the allegations in Paragraph 246 of the Complaint.

247. HNH denies the allegations in Paragraph 247 of the Complaint.

248. HNH denies the allegations in Paragraph 248 of the Complaint.

249. HNH denies the allegations in Paragraph 249 of the Complaint.

250. HNH denies the allegations in Paragraph 250 of the Complaint.

251. HNH denies the allegations in Paragraph 251 of the Complaint.

252. HNH denies the allegations in Paragraph 252 of the Complaint.

253. HNH denies the allegations in Paragraph 253 of the Complaint.
254. HNH denies the allegations in Paragraph 254 of the Complaint.
255. HNH denies the allegations in Paragraph 255 of the Complaint.
256. HNH denies the allegations in Paragraph 256 of the Complaint.
257. HNH denies the allegations in Paragraph 257 of the Complaint.
258. HNH denies the allegations in Paragraph 258 of the Complaint.
259. HNH denies the allegations in Paragraph 259 of the Complaint.
260. HNH denies the allegations in Paragraph 260 of the Complaint.
261. HNH denies the allegations in Paragraph 261 of the Complaint.
262. HNH denies the allegations in Paragraph 262 of the Complaint.
263. HNH admits the allegations in Paragraph 263 of the Complaint.
264. HNH admits the allegations in Paragraph 264 of the Complaint.
265. HNH denies the allegations in Paragraph 265 of the Complaint.
266. HNH denies the allegations in Paragraph 266 of the Complaint.
267. HNH denies the allegations in Paragraph 267 of the Complaint.
268. HNH denies the allegations in Paragraph 268 of the Complaint.
269. HNH denies the allegations in Paragraph 269 of the Complaint.

**WHEREFORE**, Intervenor, Holy Name Medical Center, Inc., hereby demands judgment against plaintiffs Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schluskel, Yaron Hirschorn, Rachel Kaye, Ashire Loike, Meryln Mark, Joseph Mark, Alan Rubinstein, David Schluskel, Marc Schluskel, and Shorana Shorana Schluskel, dismissing the Complaint with prejudice and awarding costs of suit and attorneys' fees, as well as awarding such other and further relief as the Court deems equitable and just.

**AFFIRMATIVE DEFENSES**

**FIRST SEPARATE DEFENSE**

The Complaint fails to state a claim upon which relief may be granted.

**SECOND SEPARATE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the applicable statute of limitations.

**THIRD SEPARATE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of waiver.

**FOURTH SEPARATE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of estoppel.

**FIFTH SEPARATE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of laches.

**SIXTH SEPARATE DEFENSE**

Plaintiffs' claims are barred because they lack standing.

**SEVENTH SEPARATE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, because the claims are not ripe.

**EIGHTH SEPARATE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrines of res judicata and/or collateral estoppel.

**NINTH SEPARATE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of unclean hands.

**TENTH SEPARATE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of necessity.



**RESERVATION OF RIGHTS**

HNH reserves the right to amend this Answer and to assert additional defenses and/or supplement, alter, or change this Answer upon the revelation of additional facts during and/or upon the completion of further discovery and investigation.

**WHEREFORE**, Intervenor, Holy Name Medical Center, Inc., hereby demands judgment against plaintiffs Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schlusssel, Yaron Hirschhorn, Rachel Kaye, Ashire Loike, Meryln Mark, Joseph Mark, Alan Rubinstein, David Schlusssel, Marc Schlusssel, and Shorana Shorana Schlusssel, dismissing the Complaint with prejudice and awarding costs of suit and attorneys' fees, as well as awarding such other and further relief as the Court deems equitable and just.

COLE SCHOTZ P.C.  
*Attorneys for Intervenor, Holy Name  
Medical Center, Inc.*

By: /s/ Michael C. Klauder  
Michael C. Klauder

DATED: October \_\_, 2022

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to the provisions of Rule 4:25-4, this court is hereby advised that Michael R. Yellin and Michael C. Klauder are designated as trial counsel for Intervenor, Holy Name Medical Center, Inc.

COLE SCHOTZ P.C.  
*Attorneys for Intervenor, Holy Name  
Medical Center, Inc.*

By: /s/ Michael C. Klauder  
Michael C. Klauder

DATED: October \_\_, 2022

**CERTIFICATION**

The matter in controversy is subject to the pending action entitled Michael Akerman, et al. v. Township of Teaneck, et al., bearing Docket No. BER-L-2234-22. Other than that matter, I certify that the foregoing matter in controversy is not the subject of a pending action or arbitration proceeding, nor is any action or arbitration proceeding contemplated at this time. I further certify that, to the best of my knowledge, no other parties need be joined in this matter.



I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Michael C. Klauder

Michael C. Klauder

DATED: October \_\_, 2022

	<h2 style="margin: 0;">Civil Case Information Statement</h2> <h3 style="margin: 0;">(CIS)</h3> <p style="margin: 5px 0 0 0;">Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> <b>Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed</b></p>		For Use by Clerk's Office Only
			Payment type: <input type="checkbox"/> ck <input type="checkbox"/> cg <input type="checkbox"/> ca
			Chg/Ck Number:
			Amount:
		Overpayment:	Batch Number:
Attorney/Pro Se Name <b>Michael C. Klauder, Esq.</b>		Telephone Number (201) 489-3000	County of Venue Bergen <span style="float: right;">▼</span>
Firm Name (if applicable) Cole Schotz P.C.		Docket Number (when available) BER-L-4361-22	
Office Address 25 Main Street Court Plaza North Hackensack, New Jersey 07602		Document Type Answer	
		Jury Demand <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Name of Party (e.g., John Doe, Plaintiff) Defendant, Holy Name Medical Center, Inc.		Caption Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schluskel, Yaron Hirschhorn, Rachel Kaye, et al. -v- Township of Teaneck and Township of Teaneck Planning Board	
Case Type Number (See reverse side for listing) 701	Are sexual abuse claims alleged? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this a professional malpractice case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If you have checked "Yes," see <i>N.J.S.A. 2A:53A-27</i> and applicable case law regarding your obligation to file an affidavit of merit.	
Related Cases Pending? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If "Yes," list docket numbers	
Do you anticipate adding any parties (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Name of defendant's primary insurance company (if known) <input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown	
<b>The Information Provided on This Form Cannot be Introduced into Evidence.</b>			
Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation			
Do parties have a current, past or recurrent relationship? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		If "Yes," is that relationship: <input type="checkbox"/> Employer/Employee <input type="checkbox"/> Friend/Neighbor <input type="checkbox"/> Other (explain) <input type="checkbox"/> Familial <input checked="" type="checkbox"/> Business	
Does the statute governing this case provide for payment of fees by the losing party? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition			
 Do you or your client need any disability accommodations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, please identify the requested accommodation:	
Will an interpreter be needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, for what language?	
<b>I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i>.</b>			
Attorney Signature:			

**Side 2**

# Civil Case Information Statement (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1***CASE TYPES** (Choose one and enter number of case type in appropriate space on the reverse side.)**Track I - 150 days discovery**

151 Name Change	506 PIP Coverage
175 Forfeiture	510 UM or UIM Claim (coverage issues only)
302 Tenancy	511 Action on Negotiable Instrument
399 Real Property (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)	512 Lemon Law
502 Book Account (debt collection matters only)	801 Summary Action
505 Other Insurance Claim (including declaratory judgment actions)	802 Open Public Records Act (summary action)
	999 Other (briefly describe nature of action)

**Track II - 300 days discovery**

305 Construction	603Y Auto Negligence – Personal Injury (verbal threshold)
509 Employment (other than Conscientious Employees Protection Act (CEPA) or Law Against Discrimination (LAD))	605 Personal Injury
599 Contract/Commercial Transaction	610 Auto Negligence – Property Damage
603N Auto Negligence – Personal Injury (non-verbal threshold)	621 UM or UIM Claim (includes bodily injury)
	699 Tort – Other

**Track III - 450 days discovery**

005 Civil Rights	608 Toxic Tort
301 Condemnation	609 Defamation
602 Assault and Battery	616 Whistleblower / Conscientious Employee Protection Act (CEPA) Cases
604 Medical Malpractice	617 Inverse Condemnation
606 Product Liability	618 Law Against Discrimination (LAD) Cases
607 Professional Malpractice	

**Track IV - Active Case Management by Individual Judge / 450 days discovery**

156 Environmental/Environmental Coverage Litigation	514 Insurance Fraud
303 Mt. Laurel	620 False Claims Act
508 Complex Commercial	701 Actions in Lieu of Prerogative Writs
513 Complex Construction	

**Multicounty Litigation (Track IV)**

271 Accutane/Isotretinoin	601 Asbestos
274 Risperdal/Seroquel/Zyprexa	623 Propecia
281 Bristol-Myers Squibb Environmental	624 Stryker LFIT CoCr V40 Femoral Heads
282 Fosamax	625 Firefighter Hearing Loss Litigation
285 Stryker Trident Hip Implants	626 Abilify
286 Levaquin	627 Physiomesh Flexible Composite Mesh
289 Reglan	628 Taxotere/Docetaxel
291 Pelvic Mesh/Gynecare	629 Zostavax
292 Pelvic Mesh/Bard	630 Proceed Mesh/Patch
293 DePuy ASR Hip Implant Litigation	631 Proton-Pump Inhibitors
295 AlloDerm Regenerative Tissue Matrix	632 HealthPlus Surgery Center
296 Stryker Rejuvenate/ABG II Modular Hip Stem Components	633 Prolene Hernia System Mesh
297 Mirena Contraceptive Device	634 Allergan Biocell Textured Breast Implants
299 Olmesartan Medoxomil Medications/Benicar	
300 Talc-Based Body Powders	

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category  Putative Class Action  Title 59  Consumer Fraud

# **EXHIBIT E**

**HEROLD LAW, P.A.**

Robert F. Simon, Esq. (009461992)  
25 Independence Boulevard  
Warren, New Jersey 07059  
Telephone: (908) 647-1022  
*Attorneys for Plaintiffs*

MICHAEL AKERMAN, GEORGINA B. ASANTE, YAW ASANTE, DANIEL BELLIN, RENA DONIN SCHLUSSEL, YARON HIRSCHKORN, RACHEL KAYE, ASHIRA LOIKE, ALAN RUBINSTEIN, DAVID SCHLUSSEL, MARC SCHLUSSEL, AND SHORANA SCHLUSSEL,

*Plaintiffs,*

vs.

TOWNSHIP OF TEANECK AND  
TOWNSHIP OF TEANECK PLANNING  
BOARD

*Defendants.*

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – BERGEN COUNTY

DOCKET NO.: BER-L-

CIVIL ACTION

**COMPLAINT IN LIEU OF  
PREROGATIVE WRITS**

Plaintiffs, Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schlusssel, Yaron Hirschhorn, Rachel Kaye, Ashira Loike, Alan Rubinstein, David Schlusssel, Marc Schlusssel, and Shorana Schlusssel (collectively “Plaintiffs”), by way of Complaint in Lieu of Prerogative Writs (the “Complaint”), against Defendants, Township of Teaneck (the “Township”) and Township of Teaneck Planning Board (the “Board”) (collectively, “Defendants”), say:

**NATURE OF ACTION**

1. This action in lieu of prerogative writs primarily concerns the Township’s adoption of Ordinance No. 9-2022 (“Ord. 9-2022”), to amend and revise sections 33-22, -24, of Article V, Chapter 33, of the Township’s Development Regulations and Zoning Ordinance (the

“Ordinances”), regarding the expansion of the Township’s Hospital “H” Zoning District (the “H-Zone”).

2. The real property zoned and re-zoned by Ord. 9-2022, all located in the H-Zone, is owned and/or controlled by Holy Name Medical Center, Inc. (“HNH”), and identified on the Tax Maps of the Township as Block 3003, Lots 2, 3, 4, 8, 9, 10, 11, 12, 13, and 14; and Block 3002, Lots 2, 3, 4, 5, 6, 7 and 8 (jointly and severally, the “HNH Property”).

3. The H-Zone only contains properties owned and/or controlled by HNH.

4. In this action, Plaintiffs challenge the improper adoption of Ord. 9-2022 and the validity of the actions at the March 15, 2022 Township Council meeting wherein Ord. 9-2022 was arbitrarily, capriciously, improperly, and illegitimately adopted, in violation of law, including the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., (“OPMA”), the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. (the “MLUL”), the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq. (the “LGEL”), and the Township Code of Ethics (the “Code of Ethics”).

5. Plaintiffs also challenge the validity of the action of the Board at its March 10, 2022 Board meeting wherein it improperly determined that Ord. 9-2022 was consistent with the goals and objectives of the Township’s Master Plan, despite the participation of multiple Board members suffering a disqualifying conflict of interest, in violation of the MLUL, the LGEL, and the Code of Ethics.

6. The adoption of Ord. 9-2022 was accomplished without consideration of the general welfare of the Township of Teaneck, does not advance the health, safety, or welfare of the Township’s residents and property owners, is not in the best interest of good zoning and planning, and was adopted contrary to the MLUL, the LGEL, the OPMA, and the Code of Ethics.



7. Plaintiffs seek, *inter alia*, judgment declaring Ord. 9-2022 invalid, void and contrary to law.

8. This Court has subject matter jurisdiction over Plaintiffs' claims in this Complaint pursuant to the MLUL and R. 4:69.

### **THE PARTIES**

9. Defendant, Township of Teaneck, including the Township Council, the Mayor, Deputy Mayors (individually and collectively, the "Council"), Township Manager, Council members, and other municipal officials thereof (individually and collectively, the "Township"), is a municipal corporation of the State of New Jersey, having offices at 818 Teaneck Road, Teaneck, NJ 07666.

10. Defendant, Township of Teaneck Planning Board, including its Board members (individually and collectively the "Board"), is a municipal agency constituted by the Township pursuant to the MLUL, with offices at 818 Teaneck Road, Teaneck, NJ 07666.

11. Plaintiffs Michael Akerman and Rachel Kaye are individual residents of Teaneck and owners of the property located at 692 Grange Road, Teaneck, NJ 07666.

12. Plaintiffs Marc Schluskel and Shorana Schluskel are individual residents of Teaneck and the owners of the property located at 695 Grange Road, Teaneck, NJ 07666.

13. Plaintiffs David Schluskel and Rena Donin Schluskel are individual residents of Teaneck residing at 681 Grange Road, Teaneck, NJ 07666.

14. Plaintiff Alan Rubinstein is an individual resident of Teaneck and the owner of the property located at 3 Grange Court, Teaneck, NJ 07666.

15. Plaintiff Yaron Hirschhorn is an individual resident of Teaneck and the owner of the property located at 728 Grange Road, Teaneck, NJ 07666.

16. Plaintiffs Daniel Bellin and Ashira Loike are individual residents of Teaneck and the owners of the property located at 135 Vandelinda Avenue, Teaneck, NJ 07666.

17. Plaintiffs Yaw Asante and Georgina B. Asante are individual residents of Teaneck and the owners of the property located at 140 Chadwick Road, Teaneck, NJ 07666.

### **RELEVANT FACTS**

18. Upon information and belief, HNH has for many years sought to redevelop and expand its buildings, structures and facilities.

19. These efforts included the purchase of various properties that currently comprise the HNH Property.

20. At various times between 2019 and February 2022, HNH, including its agents, employees, and professionals, discussed and negotiated with the Township terms to expand HNH's buildings, structures and facilities within the HNH Property, to permit the vacation of a certain Township right of way in favor of HNH, and for an amendment of the Township Master Plan (the "Master Plan Amendment") and amendment of the Ordinances so to permit the development, redevelopment and expansion of HNH's buildings, structures and facilities within the HNH Property.

21. During said timeframe, the Council also formed a Holy Name Medical Center three-person subcommittee (the "Holy Name Medical Center Subcommittee") to engage in said discussions and negotiations with HNH to enact a Master Plan Amendment and an amendment of the Ordinances for the development, redevelopment and expansion of HNH's buildings, structures and facilities within the HNH Property, all to benefit HNH.

22. Elie Y. Katz ("Katz") is the First Deputy Mayor of the Township, a Member of the Council, a Member of the Holy Name Medical Center Subcommittee, and a Life Member of the Teaneck Volunteer Ambulance Corp ("TVAC").

23. The adoption of Ord. 9-2022 will directly benefit TVAC.

24. Mark J. Schwartz (“Schwartz”) is the Second Deputy Mayor of the Township, a Member of the Council, a Member of the Holy Name Medical Center Subcommittee, a Class III Member of the Planning Board, a 19-year Member of TVAC, and the Vice President of Operations, a Member of the Executive Committee, a Member of the Board of Directors of Yavneh Academy & Talmud Torah of Paterson (“Yavneh”), and Publisher of The Jewish Link Newspaper (the “Jewish Link”).

25. Katz and Schwartz were members of, and controlled, the Holy Name Medical Center Subcommittee.

26. HNH is a frequent paid advertiser in the Jewish Link.

27. The Jewish Link has published articles publicly supporting Ord. 9-2022.

28. Karen Orgen (“Orgen”) is a Member of the Township Council and a Life Member and former President of TVAC.

29. Orgen’s husband, Eric Orgen, is a Life Member and the current President of TVAC.

30. Upon information and belief, a family member of Orgen was recently hired by HNH.

31. James Dunleavy (“Dunleavy”) is the Mayor of the Township, and, upon information and belief, an employee of HNH from approximately 1999 to 2003.

32. On or about July 8, 2020, HNH and the Township issued a joint press release that disclosed a plan agreed to by HNH and the Township to expand the hospital and for HNH to donate monies to TVAC for TVAC equipment and supplies (the “Joint Press Release”).

33. The Joint Press Release disclosed, among things, that “[a]s part of the plan, the hospital [HNH] will pay \$10 million over 10 years in property, sewage and water taxes and fees

for property it owns in Teaneck. The hospital [HNH] will also cover the Township's annual contribution to the Teaneck Volunteer Ambulance Corps (TVAC) for the same number of years."

34. According to the Township Budget for the 2021, the Township paid \$70,000 to TVAC.

35. A similar annual amount has been paid by HNH to TVAC in 2018, 2019 and 2020.

36. Based on the contents of the Joint Press Release, HNH will be paying TVAC \$700,000 over a 10-year period, or \$70,000 annually.

37. The payments contemplated in the Joint Press Release do not preclude the Township from continuing to make its own (additional) \$70,000 annual contributions to TVAC.

38. The Township's annual contributions to TVAC are limited to \$70,000 pursuant to N.J.S.A. 40:5-2, which statutory limit does not apply to payments made by HNH.

39. As part of the agreement between HNH and the Township to facilitate the redevelopment and expansion plans for the HNH Property as sought by HNH, the Township negotiated with HNH for TVAC to receive from HNH a financial benefit; namely, HNH making the Township's annual contribution to TVAC.

40. As demonstrated by the contents of the Joint Press Release, the Township and HNH created a direct nexus between the Township's annual obligation to fund TVAC and HNH's expansion plans.

41. The Township and HNH negotiated HNH funding of the Township's annual financial obligations to TVAC for the benefit of TVAC, a private entity in which three (3) Council Members are Life Members, active Members, or former President.

42. Life Membership status in TVAC is an honor which acknowledges ten (10) years of active service to TVAC, and means that an individual remains a full member of TVAC even after their active participation ceases.

43. Just prior to the date of the Joint Press Release, HNH entered into a contract with Yavneh to purchase property located at Block 3002, Lot 6 in Teaneck, New Jersey, commonly known as 75 Chadwick Road, Teaneck, New Jersey 07666, for a purchase price of \$750,000 (the “Yavneh Property”).

44. Yavneh had purchased the Yavneh Property from 75 Chadwick LLC on December 29, 2017, for a purchase price of \$600,000.

45. The closing on the Yavneh Property occurred on or about July 20, 2020, twelve (12) days after the date of the Joint Press Release.

46. Schwartz, as the Vice President of Operations of Yavneh, was actively involved in the sale of the Yavneh Property by Yavneh to HNH.

47. The Township Council, at a meeting held on August 11, 2020, adopted Resolution 159-2020 by a unanimous vote of 6-0, authorizing Phillips, Preiss, Grygiel, Leheny, Hughes LLC, Planning and Real Estate Consultants (“Phillips Preiss”) to undertake a master plan reexamination report under the direction of the Planning Board for expansion of the Hospital Zone within the Township.

48. Katz abstained from voting on Resolution 159-2020, while Orgen, Dunleavy and Schwartz all voted in favor of Resolution 159-2020.

49. At the August 11, 2020 Township Council meeting, the Council adopted Resolution 160-2020 by a unanimous vote of 7-0, authorizing the Planning Board to undertake a master plan reexamination and prepare a report, including recommendations of proposed development regulations, regarding the Township’s H-Zone.

50. Katz, Orgen, Dunleavy and Schwartz all voted in favor of Resolution 160-2020.

51. At the August 11, 2020 meeting, Katz and Orgen emphasized their connection to TVAC and the importance of the organization.

52. Orgen's husband spoke at the Township Council meeting on August 11, 2020 in favor of Resolution 159-2020 and Resolution 160-2020, introducing himself to the Council as the President of TVAC and as a trustee of TVAC.

53. On November 17, 2020, the Township issued Special Emergency Directive No. 03-2020 (the "2020 Special Emergency Directive"). The 2020 Special Emergency Directive, among other things, authorized HNH "to construct a temporary parking lot to accommodate the anticipated parking needs for the second round of COVID-19 cases" on Block 3002, Lots 1-6 (the "Temporary Parking Lot").

54. Even though the Township offices were open and its land use boards were meeting via the Zoom virtual platform, the 2020 Special Emergency Directive asserts that given the COVID-19 health emergency, the "approval process to approve such proposed temporary emergency medical facilities has experienced extensive delays."

55. The 2020 Special Emergency Directive further asserts that the "provisions set forth in Chapter 33, Development Regulations of the Code of the Township of Teaneck... present a potential impediment to protect and maintain the health, safety, and welfare of New Jersey residents and visitors against the effects of COVID-19 with respect to the provision of emergency medical care."

56. The 2020 Special Emergency Directive defines "Temporary Emergency Medical Facilities" to include "parking lots, which are immediately necessary to care for and treat patients suffering from COVID-19 during the current health emergency."

57. The Yavneh Property that HNH bought four months earlier from Yavneh for \$150,000 more than Yavneh paid for it is part of the parcels that were included in the 2020 Special Emergency Directive.

58. At the March 10, 2022 Board meeting, the Board's traffic engineer, John Corak of Stonefield Engineering, testified regarding the parking requirements in Ord. 9-2022 and stated that HNH's parking needs during COVID-19 were less than its parking needs pre-COVID.

59. At that same March 10, 2022 Board meeting, Deputy Mayor Schwartz said that there is not a parking problem at HNH, and that there is plenty of parking, maybe due to COVID.

60. The 2020 Special Emergency Directive suspended "the procedural requirements for obtaining site plan, subdivision, and zoning approvals for the construction of temporary emergency medical facilities, including parking areas."

61. Although the 2020 Special Emergency Directive required that "Applications for temporary emergency medical facilities shall be submitted to Teaneck's Construction Code Official for processing" according to the Township's Construction Official, the applications were not filed by HNH with the Township until on or about Monday, April 19, 2021

62. The Township allowed the Temporary Parking Lot to be built by HNH prior to the filing by HNH of said applications for temporary emergency medical facilities.

63. The Temporary Parking Lot was built by HNH prior to the filing by HNH of said applications for temporary emergency medical facilities.

64. The Zoning Permits that were issued pursuant to the 2020 Special Emergency Directive were signed by the Township's Construction Official on May 14, 2021.

65. Although the 2020 Special Emergency Directive required that "all plans shall comply with the setback, coverage, height, floor area ratio, landscaping and other substantive criteria applicable for site plans, subdivisions and zoning, other than the provisions relating to

uses”, as the entirety of Lots 2-6 are gravel parking areas, the Temporary Parking Lot was permitted by the Township to be built, and was in fact built, without first complying with all applicable site plan and zoning criteria including but not limited to lot coverage limitations, landscaping, storm water or other substantive criteria that are required for the development and use of other properties within the Township.

66. The Temporary Parking Lot was built without complying with the New Jersey Department of Environmental Protection storm water requirements for water quality or for storm water runoff.

67. Four (4) zoning permits that were applied for by HNH on or about April 19, 2021 were issued by the Township's Construction Official on or about May 14, 2021, pursuant to the 2020 Special Emergency Directive – Zoning Permit Number 20210344 for Block 3002, Lot 2 (70 Cedar Lane), Zoning Permit Number 20210345 for Block 3002, Lot 4 (45 Chadwick Road), Zoning Permit Number 20210346 for Block 3002, Lot 5 (53 Chadwick Road), and Zoning Permit Number 20210347 for Block 3002, Lot 6 (75 Chadwick Road).

68. Each of these zoning permits was “Approved with Conditions” and stated in the additional comments directly above the signature of the Township's Construction Official that the permits “shall expire upon termination of the Health Emergency or Special Emergency Directive.”

69. The 2020 Special Emergency Directive states in subparagraph f. that “Any permits issued by the Construction Official under these temporary rules and regulations promulgated hereunder shall expire upon the termination of the health emergency or the termination of the Special Emergency Directive, whichever first occurs.”

70. On June 4, 2021, Governor Murphy signed Assembly Bill No. 5820 into law as P.L.2021, c.103 and issued Executive Order No. 244, which terminated the public health



emergency declared in Executive Order No. 103 (March 9, 2020). Executive Order No. 244 states in paragraphs 1 and 3 that “The Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to EHPA, N.J.S.A. 26:13-1, et seq., is hereby terminated” and “This Order shall take effect immediately.”

71. Once the public health emergency was terminated by Governor Murphy on June 4, 2021, the temporary rules and regulations and procedural requirements that were suspended temporarily and purportedly authorized by the 2020 Special Emergency Directive were automatically reinstated by operation of law. This resulted in the expiration of the zoning permits issued to HNH.

72. On November 27, 2021, the Township of Teaneck improperly issued Special Emergency Directive No. 01-2021 (the “2021 Special Emergency Directive”) that ordered and directed that the procedural requirements necessary for obtaining site plan, subdivision, and zoning approvals would not apply to HNH for the construction of commercial parking areas primarily in a Residential Zone on 5 properties on Chadwick Road and Cedar Lane.

73. The 2021 Special Emergency Directive notes that procedural requirements are “temporarily suspended, *nunc pro tunc* [sic] from the date of the termination of the Public Health Emergency on June 4, 2021 and until the termination of the State of Emergency initially declared in Executive Order No. 103 (2020).”

74. The 2021 Special Emergency Directive improperly abrogated the MLUL and the rules and regulations of the New Jersey Department of Environmental Protection to the benefit of HNH.

75. On or about June 29, 2021, real property at 115 Chadwick Road, Block 3002, Lot 12, was listed for \$429,000, and months later sold for \$465,000 to Holy Name Real Estate Corp. (a subsidiary of HNH).

76. The real estate agent representing HNH for that transaction was Kenneth Croonquist, the Captain of Operations for the Teaneck Police Department, and the Board's Class II Board Member.

77. Croonquist and Schwartz voted for the Master Plan Amendment at the December 2021 Planning Board meeting, one month after the closing on the property for which Croonquist acted as real estate agent for HNH.

78. Ord. 9-2022 was introduced by the Council on or about February 22, 2022.

79. Ord. 9-2022 contemplates vacating portions of a public right of way, Chadwick Road, to HNH, whereby HNH would receive almost an acre of real property from the Township for its use without HNH having to pay appropriate consideration for same.

80. Prior to the March 10, 2022 Board meeting where Ordinance 9-2022 was to be considered by the Board pursuant to N.J.S.A. 40:55D-26, one of the Plaintiffs, David Schlusel, verbally informed Schwartz that he had a disqualifying conflict of interest as to Ordinance 9-2022 and requested that Schwartz recuse himself from the Board discussion of Ord. 9-2022.

81. Prior to the meeting, David Schlusel also informed the Chairman of the Planning Board, Joseph Bodner, about the conversation with Schwartz.

82. Plaintiff David Schlusel reiterated the disqualifying conflict of interest issue concerning Schwartz at the March 10, 2022 Planning Board meeting.

83. Schwartz improperly failed to recuse himself from the Board's consideration of Ordinance 9-2022 pursuant to N.J.S.A. 40:55D-26.

84. Plaintiffs were not aware of Board member Croonquist's disqualifying conflict of interest until after the March 10, 2022 Board meeting.

85. The conflict of interest issue was not addressed by Schwartz or Croonquist at the March 10, 2022 Board meeting, either prior or subsequent to the Board's consideration of Ordinance 9-2022 pursuant to N.J.S.A. 40:55D-26.

86. Notwithstanding their conflicts of interest, both Croonquist and Schwartz each participated on March 10, 2022 in the Board's discussion of Ord. 9-2022 and subsequently both voted to recommend that Ord. 9-2022 was consistent with the Township's Master Plan.

87. In fact, Schwartz moved the Board's motion to recommend that Ord. 9-2022 was consistent with the Township's Master Plan and Croonquist seconded the motion.

88. During the March 10, 2022 Board meeting, the Board noted the following recommendations for Ord. 9-2022: (i) fencing should be required along the entire western and southern boundaries of the H-Zone; (ii) parking space requirements should be revisited to make sure they are sufficient; (iii) any vehicular entrance to area MOB-4 of the H-Zone along Vandelinda Avenue shall be prohibited; (iv) that there be a physical control to limit traffic into HNH from Vandelinda Avenue; (v) objections as to some of the accessory uses permitted within the H-2 regulations; (vi) there should be no fees for any parking at HNH; and (vii) encouraging the removal of the obsolete boiler plant smokestack.

89. By letter from the Board attorney dated March 14, 2022 (the "Board Report"), the Board issued its report to the Council concerning Ord. 9-2022 as contemplated by N.J.S.A. 40:55D-26.

90. The Board Report noted only four (4) recommendations as to Ord. 9-2022, three (3) of which were more qualified and limited than the actual recommendations from the Board expressed at its March 10, 2022 meeting.

91. The Board's recommendations concerning the MOB-4 entrance, the smokestack, and the H-2 accessory uses were omitted entirely from the Board Report.

92. Prior to the March 15, 2022 Council meeting, an attorney representing certain Plaintiffs sent a letter dated March 14, 2022 to the Township, wherein it was requested that Orgen, Schwartz, and Katz recuse themselves from considering Ord. 9-2022 due to disqualifying conflicts of interest.

93. On March 15, 2022, at approximately 10:15 a.m., certain Plaintiffs filed with the Township Clerk 42 Protest Petitions (“Protest Petition”) along with a Professional Planner Certification by T. Andrew Thomas in opposition to proposed Ord. 9-2022, in accordance with N.J.S.A. 40:55D-63.

94. On March 15, 2022, at approximately 3:29 p.m., the Township acknowledged receipt by e-mail of one (1) additional protest petition (to be added to the previously filed Protest Petition) filed with the Municipal Clerk by certain Plaintiffs at approximately 1:31 p.m., with a hard copy of said additional protest petition filed at approximately 4:55 p.m.) in opposition to Ord. 9-2022, in accordance with N.J.S.A. 40:55D-63.

95. On March 15, 2022, the Township Council conducted a virtual hearing on Ord. 9-2022 via the Zoom virtual platform.

96. The Council improperly and arbitrarily failed to acknowledge the validity of the filed Protest Petition per N.J.S.A. 40:55D-63 at its March 15, 2022 meeting concerning Ord. 9-2022.

97. This is the third time in less than a year that the Township rejected properly filed petitions. The first petition case, Docket Number: BER-L-5526-21, was decided against the Township with an Order for Final Judgment on September 13, 2021. The second petition case, Docket Number: BER-L-5566-21, was decided against the Township with an Action in Lieu of Prerogative Writs on September 13, 2021.

98. The Council improperly and arbitrarily failed to consider the Board Report per N.J.S.A. 40:55D-26 at its March 15, 2022 meeting concerning Ord. 9-2022.

99. N.J.S.A. 40:49-2, which governs the procedure for passage of ordinances, requires that “all persons interested shall be given an opportunity to be heard concerning the ordinance. The opportunity to be heard shall include the right to ask pertinent questions concerning the ordinance by any resident of the municipality or any other person affected by the ordinance.”

100. At the March 15, 2022 virtual Council meeting, at least six (6) individuals (Ezra Katz, Charles Powers, Alan Rubinstein, David Schlussel, Rena Schlussel, and Ronnie Schlussel), all of whom had their “hands raised” indicating their request to participate in the mandatory public discussion of Ord. 9-2022, were intentionally overlooked and ignored, and were denied any opportunity to be heard on the record as to the public hearing on Ord. 9-2022 as required by law, including the OPMA.

101. In contrast, upon information and belief, every attendee of the virtual Council meeting on March 15, 2022 that supported Ord. 9-2022 was given a full opportunity to comment, as they each either displayed Zoom “names” including a message indicating the attendee’s public support for Ord. 9-2022, or were known by the Township Clerk, who controlled the order and identity of those speaking at the public hearing on Ord. 9-2022, to support its adoption.

102. Specifically, the first person to be allowed to speak was a former Teaneck Mayor and current, well-known HNH employee, and the last person allowed to speak was HNH’s Professional Planner.

103. At the March 15, 2022 public hearing on Ord. 9-2022, no discussion was held concerning the previously alleged conflicts of Katz, Schwartz and Orgen, except for a statement by Orgen just prior to a vote on the ordinance that she was recusing herself because an unnamed family member was recently employed by HNH.

104. No other members of the Council recused from voting on Ord. 9-2022, despite some having disqualifying conflicts of interest.

105. The motion to adopt Ord. 9-2022 was made by conflicted Council Member Deputy Mayor Schwartz, and seconded by conflicted Council Member Deputy Mayor Katz.

106. Ord. 9-2022 was approved and adopted on March 15, 2022 by the Council by a vote of 6-0-1, with Orgen being the only recusal.

### **COUNT I**

#### **THE BOARD'S ACTIONS WERE VIOLATIVE OF LAW**

107. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

108. The December 16, 2021 amendment to the Master Plan failed to comply with N.J.S.A. 40:55D-28.

109. The Board improperly failed to acknowledge that Ord. 9-2022 is in certain respects inconsistent with the Township Master Plan.

110. The Board Report's recommendation that Ord. 9-2022 was consistent with the Master Plan was arbitrary, capricious, unreasonable, inaccurate, and unlawful.

111. The Board Report failed to accurately reflect the comments and opinions of the Board as expressed at its March 10, 2022 Board meeting concerning Ord. 9-2022.

112. Schwartz and Croonquist improperly failed to acknowledge that they each had conflicts of interest that precluded them at the March 10, 2022 Board meeting from participating in any discussion or vote as to Ord. 9-2022 pursuant to N.J.S.A. 40:55D-26, or any issuance of the Board Report in furtherance of same.

113. Croonquist's participation at the March 10, 2022 meeting concerning Ord. 9-2022 was unlawful and a violation of the LGEL, the MLUL, and the Code of Ethics.

114. Croonquist's unlawful participation at the March 10, 2022 meeting concerning Ord. 9-2022 irreparably tainted any Board action as to same and the Board Report.

115. Croonquist's unlawful participation requires the March 10, 2022 Board meeting concerning Ord. 9-2022, and the Board Report, to be invalidated in their entirety.

116. Schwartz's participation at the March 10, 2022 meeting concerning Ord. 9-2022 was unlawful and a violation of the LGEL, the MLUL, and the Code of Ethics.

117. Schwartz's unlawful participation at the March 10, 2022 meeting concerning Ord. 9-2022 irreparably tainted any Board action as to same and the Board Report.

118. Schwartz's unlawful participation requires the March 10, 2022 Board meeting concerning Ord. 9-2022, and the Board Report, to be invalidated in their entirety.

119. The Board's failure to address the disqualifying conflicts of interest for Schwartz and Croonquist pursuant to law and prior to its issuance of the Board Report was arbitrary, capricious, unreasonable, and unlawful, rendering the Board Report as invalid.

120. The Board's actions as to Ord. 9-2022 have deprived Plaintiffs of their right to an impartial quasi-judicial body and a fair proceeding.

121. As the Board Report was invalid as a matter of law, the adoption by the Council of Ord. 9-2020 was invalid as a matter of law.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Board's actions at the Board's March 10, 2022 meeting concerning Ord. 9-2022 were arbitrary, capricious, unreasonable, and unlawful;
- (b) Finding that Croonquist and Schwartz suffered disqualifying conflicts of interest;
- (c) Enjoining and restraining Croonquist and Schwartz from further participation in any proceeding involving Ord. 9-2022 or the HNH Property;

- (d) Invalidating the Board Report and the actions of the Board at its March 10, 2022 meeting concerning Ord. 9-2022 as ultra vires and without effect;
- (e) Invalidating Ord. 9-2022;
- (f) For attorneys' fees, costs of suit and interest; and
- (g) For any and all such other relief as this Court deems equitable and just.

## **COUNT II**

### **IMPERMISSIBLE CONFLICTS OF INTEREST**

122. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

123. The Township's refusal to address at the public hearing on Ord. 9-2022 the multiple disqualifying conflicts of interest of Council members was arbitrary, capricious, unreasonable, and a violation of law including the LGEL, the Code of Ethics, and the OPMA.

124. Katz suffered a disqualifying conflict of interest regarding Ord. 9-2022 and should have recused himself as to any consideration of Ord. 9-2022.

125. Despite Katz having a disqualifying conflict of interest regarding Ord. 9-2022, requiring him to recuse himself from publicly participating in the consideration of, or in the vote on, Ord. 9-2022, he improperly participated in the public hearing on Ord. 9-2022, in violation of law including the LGEL and the Code of Ethics.

126. Despite Katz having a disqualifying conflict of interest regarding Ord. 9-2022, requiring him to recuse himself from publicly participating in the consideration of, or in the vote on, Ord. 9-2022, he improperly voted on said ordinance, in violation of law including the LGEL and the Code of Ethics.



127. Katz's participation during the March 15, 2022 Council meeting regarding consideration of Ord. 9-2022 irreparably tainted any Council action as to same and requires the invalidation of Ord. 9-2022.

128. Schwartz suffered a disqualifying conflict of interest regarding Ord. 9-2022 and should have recused himself as to any consideration of Ord. 9-2022.

129. Despite Schwartz having a disqualifying conflict of interest regarding Ord. 9-2022, requiring him to recuse himself from publicly participating in the consideration of, or in the vote on, Ord. 9-2022, he improperly participated in the public hearing on Ord. 9-2022, in violation of law including the LGEL and the Code of Ethics.

130. Despite Schwartz having a disqualifying conflict of interest regarding Ord. 9-2022, requiring him to recuse himself from publicly participating in the consideration of, or in the vote on, Ord. 9-2022, he improperly voted on said ordinance, in violation of law including the LGEL and the Code of Ethics.

131. Schwartz's participation during the March 15, 2022 Council meeting regarding consideration of Ord. 9-2022 irreparably tainted any Council action as to same and requires the invalidation of Ord. 9-2022.

132. Dunleavy suffered a disqualifying conflict of interest regarding Ord. 9-2022 and should have recused himself as to any consideration of Ord. 9-2022.

133. Despite Dunleavy having a disqualifying conflict of interest regarding Ord. 9-2022, requiring him to recuse himself from publicly participating in the consideration of, or in the vote on, Ord. 9-2022, he improperly participated in the public hearing on Ord. 9-2022, in violation of law including the LGEL and the Code of Ethics.

134. Despite Dunleavy having a disqualifying conflict of interest regarding Ord. 9-2022, requiring him to recuse himself from publicly participating in the consideration of, or in

the vote on, Ord. 9-2022, he improperly voted on said ordinance, in violation of law including the LGEL and the Code of Ethics.

135. Dunleavy's participation during the March 15, 2022 Council meeting regarding consideration of Ord. 9-2022 irreparably tainted any Council action as to same and requires the invalidation of Ord. 9-2022.

136. Despite Orgen having a disqualifying conflict of interest regarding Ord. 9-2022, requiring her to recuse herself from publicly participating in the consideration of, or in the vote on, Ord. 9-2022, she improperly was present and participated in the public hearing on Ord. 9-2022, in violation of law including the LGEL and the Code of Ethics.

137. Orgen's presence and participation during the March 15, 2022 Council meeting regarding consideration of Ord. 9-2022 irreparably tainted any Council action as to same and requires the invalidation of Ord. 9-2022.

138. Upon information and belief, members of the Board and/or the Township, including the Mayor, both Deputy Mayors and members of the Township Council, participated in substantive discussions, meetings and negotiations with HNH and its employees, agents and representatives concerning development of the HNH Property, all prior to the introduction of Ord. 9-2022, and in violation of the OPMA.

139. Said participation by members of the Board and/or Council disqualified such members from hearing, participating in, deliberating upon or voting on Ord. 9-2022.

140. Given the conflicts of interest of certain members of the Council, Ord. 9-2022 would not have received the required, favorable vote of two-thirds of all the members of the governing body of the municipality following the filing of the Protest Petition, per N.J.S.A. 40:55D-63.

141. The Council's actions improperly deprived Plaintiffs of their right to an impartial legislative body and a fair proceeding.

142. Ord. 9-2022 is invalid as adopted contrary to law.

143. The Township's actions at the March 15, 2022 meeting as to Ord. 9-2022 were in violation of law and deprived Plaintiffs of their legal rights.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Township's actions at the March 15, 2022 meeting concerning Ord. 9-2022 were arbitrary, capricious, unreasonable, and unlawful;
- (b) Finding that Katz, Schwartz, Dunleavy, Orgen and Croonquist suffered disqualifying conflicts of interest as to Ord. 9-2022;
- (c) Enjoining and restraining Katz, Schwartz, Dunleavy, Orgen and Croonquist from further participation in any proceeding involving Ord. 9-2022 or the HNH Property;
- (d) Invalidating Ord. 9-2022 and the actions of the Township at its March 15, 2022 meeting concerning Ord. 9-2022 as ultra vires and without effect;
- (e) For attorneys' fees, costs of suit and interest; and
- (f) For any and all such other relief as this Court deems equitable and just.

**COUNT III**

**FAILURE TO ACKNOWLEDGE THE  
VALIDLY FILED PROTEST PETITION  
PURSUANT TO N.J.S.A. 40:55D-63**

144. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

145. The Township's refusal to address, consider or acknowledge at the public hearing on Ord. 9-2022 the validity of the filed Protest Petition pursuant to N.J.S.A. 40:55D-63 was

arbitrary, capricious, unreasonable, and a violation of law, including Section 63 of the MLUL and the OPMA.

146. The Township's refusal to consider or acknowledge the Protest Petition deprived Plaintiffs of their legal rights.

147. Ord. 9-2022 is invalid, as adopted contrary to law.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Township's actions at the March 15, 2022 meeting concerning Ord. 9-2022 were arbitrary, capricious, unreasonable, and unlawful;
- (b) Finding that Katz, Schwartz, Dunleavy, Orgen and Croonquist suffered disqualifying conflicts of interest as to Ord. 9-2022;
- (c) Enjoining and restraining Katz, Schwartz, Dunleavy, Orgen and Croonquist from further participation in any proceeding involving Ord. 9-2022 or the HNH Property;
- (d) Invalidating Ord. 9-2022 and the actions of the Township at its March 15, 2022 meeting concerning Ord. 9-2022 as ultra vires and without effect;
- (e) For attorneys' fees, costs of suit and interest; and
- (f) For any and all such other relief as this Court deems equitable and just.

**COUNT IV**

**FAILURE TO COMPLY WITH  
N.J.S.A. 40:55D-26**

148. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

149. The Township's failure to review and consider at the public hearing on Ord. 9-2022 the Board Report pursuant to N.J.S.A. 40:55D-26 was arbitrary, capricious, unreasonable, and a violation of law, including the MLUL and the OPMA.

150. The Township's refusal to review and consider the Board Report at the public hearing on Ord. 9-2022 was improper and deprived Plaintiffs of their legal rights.

151. As the Board Report was invalid as a matter of law, the Council's adoption of Ord. 9-2020 was invalid.

152. Ord. 9-2022 is invalid, as adopted contrary to law.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Township's actions at the March 15, 2022 meeting concerning Ord. 9-2022 were arbitrary, capricious, unreasonable, and unlawful;
- (b) Finding that Katz, Schwartz, Dunleavy, Orgen and Croonquist suffered disqualifying conflicts of interest as to Ord. 9-2022;
- (c) Enjoining and restraining Katz, Schwartz, Dunleavy, Orgen and Croonquist from further participation in any proceeding involving Ord. 9-2022 or the HNH Property;
- (d) Invalidating Ord. 9-2022 and the actions of the Township at its March 15, 2022 meeting concerning Ord. 9-2022 as ultra vires and without effect;
- (e) For attorneys' fees, costs of suit and interest; and
- (f) For any and all such other relief as this Court deems equitable and just.

**COUNT V**

**FAILURE TO COMPLY WITH  
N.J.S.A. 40:55D-62**

153. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

154. Ord. 9-2022 was not drawn with reasonable consideration to the character of each district in the Township of Teaneck and its particular suitability for particular uses and to encourage the most appropriate use of land.

155. Ord. 9-2022 is invalid, as adopted contrary to law.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Township’s actions at the March 15, 2022 meeting concerning Ord. 9-2022 were arbitrary, capricious, unreasonable, and unlawful;
- (b) Finding that Katz, Schwartz, Dunleavy, Orgen and Croonquist suffered disqualifying conflicts of interest as to Ord. 9-2022;
- (c) Enjoining and restraining Katz, Schwartz, Dunleavy, Orgen and Croonquist from further participation in any proceeding involving Ord. 9-2022 or the HNH Property;
- (d) Invalidating Ord. 9-2022 and the actions of the Township at its March 15, 2022 meeting concerning Ord. 9-2022 as ultra vires and without effect;
- (e) For attorneys’ fees, costs of suit and interest; and
- (f) For any and all such other relief as this Court deems equitable and just.

**COUNT VI**

**VIOLATIONS OF THE OPMA**

156. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

157. The Township’s actions in adopting Ord. 9-2022 were in violation of the OPMA.

158. The Township’s refusal to allow at least six (6) members of the public to comment on Ord. 9-2022, while allowing every attendee of the virtual Council meeting on March 15, 2022 that supported Ord. 9-2022 an opportunity to comment, as they each either displayed Zoom “names” including a message indicating the attendee’s public support for Ord. 9-2022, or were known by the Township Clerk, who controlled the order and identity of those

speaking at the public hearing on Ord. 9-2022, was arbitrary, capricious, unreasonable, and unlawful, and in violation of the OPMA.

159. Ord. 9-2022, and the process by which it was adopted, are contrary to law, including, but not limited to, the provisions and requirements of the MLUL and the OPMA.

160. The Township's actions at the March 15, 2022 meeting were in violation of the OPMA, were arbitrary, capricious, unreasonable, unlawful, deprived Plaintiffs of their legal rights, and illegally tainted the public proceedings concerning Ord. 9-2022.

161. Ord. 9-2022 is invalid, as adopted contrary to law.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Township's actions at the March 15, 2022 meeting concerning Ord. 9-2022 were arbitrary, capricious, unreasonable, and unlawful;
- (b) Finding that Katz, Schwartz, and Dunleavy, Orgen and Croonquist suffered disqualifying conflicts of interest as to Ord. 9-2022;
- (c) Enjoining and restraining Katz, Schwartz, Dunleavy, Orgen and Croonquist from further participation in any proceeding involving Ord. 9-2022 or the HNH Property;
- (d) Invalidating Ord. 9-2022 and the actions of the Township at its March 15, 2022 meeting concerning Ord. 9-2022 as ultra vires and without effect;
- (e) For attorneys' fees, costs of suit and interest; and
- (f) For any and all such other relief as this Court deems equitable and just.

## **COUNT VII**

### **ILLEGAL GOVERNMENTAL ACTION**

162. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

163. Upon information and belief, on or about April 24, 2021, the then Township Planner, Richard Preiss, sent an email to Katz and Schwartz stating: “why allowing them [HNH] to get their way, imperils the neighborhood, the Township, and most of all the two of you and other members of the council who may be tempted to go along with them.”

164. The Township bestowed illegal favoritism on HNH by improperly manipulating the public process that led to the adoption of Ord. 9-2022.

165. Upon information and belief, representatives of HNH initiated substantive discussions with representatives and officials of the Township concerning a plan for the redevelopment of the HNH Property to only benefit HNH.

166. The adoption of Ord. 9-2022 was intended to improperly bestow a private benefit, and was arbitrary, capricious, unreasonable, unconstitutional, and contrary to law.

167. Ord. 9-2022 improperly treats the HNH Property more favorably than other properties in the Township of Teaneck

168. Ord. 9-2022 does not maintain a relationship of mutual benefit among different land uses.

169. Ord. 9-2022 does not serve the common good or the general welfare.

170. Ord. 9-2022 is not compatible with, and does not further, a legitimate comprehensive land use scheme or plan for the zoning of the Township of Teaneck.

171. Ord. 9-2022, and the process by which it was adopted, are contrary to law, including, but not limited to, the provisions and requirements of the MLUL and the OPMA.

172. Ord. 9-2022 does not serve the purposes of zoning set forth in the MLUL.

173. In adopting Ord. 9-2022, the Township failed to provide adequate reasons in a resolution for acting inconsistent with, and not designed to effectuate the Land Use Element of the Master Plan.



174. The adoption of Ord. 9-2022 constitutes another example of improper favorable treatment of HNH and accommodations to HNH by the Township, including improperly allowing violations of the Ordinances and the MLUL to continue to go unabated by HNH, and to allow HNH to dictate and direct with the complicity of the Township HNH's intended current and future development of the HNH Property, all to the detriment of the surrounding neighborhood and the general welfare of the community.

175. Ord. 9-2022 inappropriately contemplates the Township conveying real property to HNH without HNH having to pay appropriate legal consideration for same.

176. HNH's ongoing advocacy for desired zoning regulations was the impetus for implementing Ord. 9-2022.

177. The actions of the Township improperly bestowed a private benefit upon HNH.

178. The Township improperly demonstrated favoritism toward HNH to the detriment of the public in adopting Ord. 9-2022.

179. The adoption of Ord. 9-2022 was tainted by biased and prejudiced public officials.

180. Ord. 9-2022 is arbitrary, capricious, unreasonable, unlawful, and confers an improper benefit upon HNH at the expense, and to the detriment, of Plaintiffs and the public.

181. Ord. 9-2022 constitutes illegal spot zoning.

182. The adoption of Ord. 9-2022 was arbitrary, capricious, unreasonable, and contrary to law.

183. Ord. 9-2022 is therefore void, of no effect, and invalid.

184. Ord. 9-2022 is to be declared void and without effect.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that the Township's actions at the March 15, 2022 meeting concerning Ord. 9-2022 were arbitrary, capricious, unreasonable, and unlawful;
- (b) Finding that Katz, Schwartz, Dunleavy, Orgen and Croonquist suffered disqualifying conflicts of interest as to Ord. 9-2022;
- (c) Enjoining and restraining Katz, Schwartz, Dunleavy, Orgen and Croonquist from further participation in any proceeding involving Ord. 9-2022 or the HNH Property;
- (d) Invalidating Ord. 9-2022 and the actions of the Township at its March 15, 2022 meeting concerning Ord. 9-2022 as ultra vires and without effect;
- (e) For attorneys' fees, costs of suit and interest; and
- (f) For any and all such other relief as this Court deems equitable and just.

**COUNT VIII**

**DEPRIVATION OF RIGHTS PURSUANT TO  
THE NEW JERSEY CONSTITUTION,  
N.J.S.A. 10:6-1, et seq.**

185. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if set forth at length herein.

186. All actions taken by the Board and the Township were done under color of law.

187. The actions taken by the Board and the Township caused the deprivation of Plaintiffs' due process rights by denying Plaintiffs their Constitutionally-protected due process rights to a fair and unbiased hearing.

188. Plaintiffs' due process rights were established and well-settled at the time of the deprivation caused by the actions of the Board and the Township.

189. The arbitrary and predetermined findings of the Township and the Board deprived Plaintiffs of their Constitutionally-guaranteed right to due process and a fair hearing.

190. The Board refused to consider in an unbiased and fair manner evidence and legal arguments regarding disqualifying conflicts of interest.

191. The Board knew or should have known that Croonquist suffered a disqualifying conflict of interest.

192. The Board knew or should have known that Schwartz suffered a disqualifying conflict of interest.

193. The Board failed to act in good faith.

194. The Township refused to consider in an unbiased and fair manner evidence and legal arguments regarding disqualifying conflicts of interest, illegal spot zoning, and the Protest Petition.

195. The Township refused to allow certain public testimony in opposition to Ord. 9-2022 despite providing every opportunity for public testimony in support of Ord. 9-2022, therefore demonstrating a coordinated effort with HNH to deprive Plaintiffs of their statutory and constitutional rights.

196. The Township knew or should have known it was denying Plaintiffs their right to publicly comment in violation of the OPMA and N.J.S.A. 40:49-2.

197. The Township manipulated the public process and vote on Ord. 9-2022 in violation of law.

198. The Township knew or should have known that Schwartz suffered a disqualifying conflict of interest.

199. The Township knew or should have known that Katz suffered a disqualifying conflict of interest.

200. The Township knew or should have known that Dunleavy suffered a disqualifying conflict of interest.

201. The Township failed to act in good faith.

202. All attempts to obtain a fair hearing by Plaintiffs were futile due to the predetermined actions and decisions by the Board and Township.

203. The procedures, actions, and decisions of the Board and the Township which deprived Plaintiffs of their due process rights demonstrate egregious government misconduct that shocks the conscience.

204. The procedures, actions, and decisions of the Board and the Township resulting in the deprivation of Plaintiffs' rights were arbitrary, capricious, unreasonable, and a manifest abuse of power.

205. The procedures, actions, and decisions of the Township in approving Ord. 9-2022 were arbitrary, capricious, unreasonable, and a manifest abuse of power.

206. The actions of the Board and the Township constitute final decisions by the respective municipal bodies.

207. Plaintiffs reasonably expected to have the Defendants and its officials, employees and agents, as government officials, exercise its duty to properly act to protect Plaintiffs' constitutional due process, equal protection and property rights.

208. The actions of the Defendants and its officials, officers, employees, and agents, regarding Ord. 9-2022, were not logically or legally supportable, were arbitrary, capricious and unreasonable, were an abuse of discretion, and constitute a denial of the property and liberty rights of the Plaintiffs under color of state law and in violation of the Constitution of New Jersey and the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq. (the "NJ CRA").

209. Having acted without lawful warrant under color of state laws to deprive Plaintiffs of their constitutional rights, the Defendants are liable to Plaintiffs under the NJCRA and the New Jersey Constitution.

210. Plaintiffs were deprived of their rights to due process and equal protection, and were denied their right to fair and unbiased proceedings by the Board's and the Township's actions in furtherance of their illegal campaign to adopt Ord. 9-2022.

211. Said actions of Defendants rendered the Board's and the Township's findings as to Ord. 9-2022 and any other ordinances adopted in furtherance of same, as invalid, arbitrary, capricious, and contrary to law.

212. Plaintiffs are without alternative relief, administrative or otherwise, and therefore resort to intervention by the Court.

**WHEREFORE**, Plaintiffs demand judgment against Defendants as follows:

- (a) Finding that Defendants' actions resulted in an intentional deprivation of Plaintiffs' rights;
- (b) Finding that Katz, Schwartz, Dunleavy, Orgen and Croonquist suffered disqualifying conflicts of interest;
- (c) Enjoining and restraining Katz, Schwartz, Dunleavy, Orgen and Croonquist from further participation in any proceeding involving Ord. 9-2022 or the HNH Property;
- (d) Invalidating the actions of the Board at its March 10, 2022 meeting as to Ord. 9-2022 as ultra vires and without effect;
- (e) Invalidating the actions of the Township at its March 15, 2022 meeting as to Ord. 9-2022 as ultra vires and without effect;
- (f) Invalidating Ord. 9-2022;

- (g) Damages pursuant to N.J.S.A. 10:6-1, *et seq.*;
- (h) For reasonable attorney's fees and expert fees pursuant to N.J.S.A. 10:6-2(f);
- (i) For attorneys' fees, costs of suit and interest; and
- (j) For any and all such other relief as this Court deems equitable and just.

HEROLD LAW, P.A.  
*Attorneys for Plaintiffs*

By: /s/ Robert F. Simon  
Robert F. Simon

Dated: April 21, 2022

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, Robert F. Simon, Esq. is hereby designated as trial counsel for Plaintiffs.

HEROLD LAW, P.A.  
*Attorneys for Plaintiffs*

By: /s/ Robert F. Simon  
Robert F. Simon

Dated: April 21, 2022

**CERTIFICATION PURSUANT TO RULE 4:5-1**

I hereby certify that there are no related matters currently pending in any Court of competent jurisdiction. I further certify that I know of no other parties who should be joined in this matter at the present time.

HEROLD LAW, P.A.  
*Attorneys for Plaintiffs*

By: /s/ Robert F. Simon  
Robert F. Simon

Dated: April 21, 2022

**CERTIFICATION PURSUANT TO RULE 4:69-4**

I hereby certify that all necessary transcripts of local agency proceedings in this cause have been ordered.

HEROLD LAW, P.A.  
*Attorneys for Plaintiffs*

By: /s/ Robert F. Simon  
Robert F. Simon

Dated: April 21, 2022

# **EXHIBIT F**



Michael R. Yellin – Atty ID # 014712008  
Michael C. Klauder – Atty ID # 086632014

**COLE SCHOTZ P.C.**

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Plaintiffs,

v.

TOWNSHIP OF TEANECK AND  
TOWNSHIP OF TEANECK PLANNING  
BOARD,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY  
DOCKET NO. BER-L-2234-22

Civil Action

**[PROPOSED] ORDER GRANTING HOLY  
NAME MEDICAL CENTER, INC.'S  
MOTION TO INTERVENE**

**THIS MATTER** having been open to the Court by Cole Schotz P.C., attorneys for Holy Name Medical Center, Inc. (“HNH”), upon notice of motion to intervene pursuant to Rule 4:33-1 or, in the alternative, Rule 4:33-2; and the Court having read and considered the papers filed in support of the motion and in opposition thereto, if any; and the Court having heard the oral argument of counsel, if any; and for good cause shown,

**IT IS** on this 2ND day of AUGUST, 2022,

**ORDERED** that HNH’s motion to intervene be and the same hereby is GRANTED; and it is further

**ORDERED** that HNH shall file its proposed Answer and Affirmative Defenses to Complaint in Lieu of Prerogative Writs and Case Information Statement within ten (10) days of the date of this Order.

**ORDERED** that counsel for HNH shall serve a copy of this Order on all counsel of record within five (5) days of the date of this Order.

*Peter G. Geiger, J.S.C.*  
\_\_\_\_\_  
HON. **PETER G. GEIGER, J.S.C.**

Opposed (X)  
Unopposed ( )

# Cole Schotz P.C.

Michael C. Klauder  
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Florida

November 2, 2022

## Via eCourts

Hon. Peter G. Geiger, J.S.C.  
Superior Court of New Jersey  
Bergen County Courthouse  
10 Main Street, 2nd Floor  
Hackensack, NJ 07601

**Re: Michael Akerman, et al. v. Township of Teaneck, et al.**  
**Docket No. BER-L-4361-22**

Dear Judge Geiger:

This firm represents proposed-intervenor, Holy Name Medical Center, Inc. (“HNH”) in connection with the above action. We respectfully submit this letter brief, in support of HNH’s motion to intervene pursuant to Rule 4:33-1 or, in the alternative, Rule 4:33-2.

## LEGAL ARGUMENT

### **1. HNH is Entitled To Intervene In This Action Pursuant to Rule 4:33-1 To Protect Its Property Rights, Which Are the Subject Of This Lawsuit, And To Defend Against Plaintiffs’ False Allegations Against HNH.**

Rule 4:33-1 provides that any party may intervene, as of right, in an action if: (1) “the applicant claims an interest relating to the property or transaction which is the subject of the action,” (2) the applicant “is so situated that the disposition of the action may as a practical matter impair or impede the ability to protect that interest,” (3) the applicant’s interest is not “adequately represented by existing parties,” and (4) the applicant makes a “timely” application to intervene. Rule 4:33-1; see also Meehan v. K.D. Partners, L.P., 317 N.J. Super. 563, 568 (App. Div. 1998) (citing Chesterbroke Ltd. P’Ship v. Planning Bd., 237 N.J. Super. 118, 124 (App. Div.), certif. den., 118 N.J. 234 (1989)).

It is also well settled that “[a] motion to intervene should be liberally viewed.” Pressler & Verniero, Current N.J. Court Rules, cmt. 1 on R. 4:33-1 (2022) (citing Atlantic Employers Ins. Co. v. Tots & Toddlers Pre-School Day Care Cntr., Inc., 239 N.J. Super. 276 (App. Div.), certif. den., 122 N.J. 147 (1990)). Moreover, the right to intervene under Rule 4:33-1 is not discretionary – if the party seeking to intervene meets the criteria set forth in the Rule, the movant must be permitted

Cole Schotz P.C.

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to intervene. See, e.g., ACLU v. Hudson Cnty., 352 N.J. Super. 44, 67 (App. Div.), certif. den., 174 N.J. 190 (2002). HNH easily satisfies the criteria set forth in Rule 4:33-1.

*First*, HNH possesses an interest relating to the properties and ordinances at issue in this litigation. The Complaint filed by Plaintiffs<sup>1</sup> seeks to invalidate Ordinance No. 22-2022 and Ordinance No. 23-2022 (Cmplt.<sup>2</sup> at ¶ 1.) Those Ordinances amend the zoning applicable to the subject area (referred to by Plaintiffs as the “H-Zone”) which, as Plaintiffs admit, “only contains properties owned and/or controlled by HNH.” (Cmplt. at ¶¶ 3, 5, 9-10.) In fact, Plaintiffs refer to the property “jointly and severally” as the “HNH Property.” (Cmplt. at ¶ 9.) Moreover, the Ordinances grant certain property rights to HNH to permit HNH to expand its medical facilities. (Cmplt. at ¶¶ 7, 94.) HNH unquestionably possesses a significant interest in the proposed rezoning and expansion of its medical facilities.

*Second*, the disposition of this action will impair HNH’s to protect its interests regarding its own property. All the property in the subject area – as previously zoned and re-zoned by Ordinance No. 9-2022 – is owned by HNH. In other words, HNH is the *only* party whose property interests are implicated in this matter. Not only will the disposition have a direct impact on HNH’s property, but it will also have a direct impact on HNH’s plans and ability to expand its critical medical facilities.

*Third*, HNH’s interests are different than and supplemental to those interests that the defendants seek to protect. While the primary relief sought by Plaintiffs is the invalidation of Ordinance Nos. 22-2022 and 23-2022, the Complaint is rife with allegations, both direct and indirect, of alleged wrongdoing by HNH. Plaintiffs improperly allege and/or insinuate, for example, that HNH engaged in certain financial improprieties, entered improper agreements with the defendants or its members, and performed unauthorized work and otherwise failed to comply with local zoning criteria. (Cmplt. at ¶¶ 46, 47, 70-71.) In many ways, Plaintiffs’ complaint is just as much an attack against HNH as it is against the named defendants. And while the named defendants may defend the propriety of Ordinance No. 22-2022 and Ordinance No. 23-2022, there is no guarantee they will, or are even able to, defend against the allegations of purported wrongdoing against HNH. In fact, based on the defendants’ inability to deny certain of those allegations in their Answer, every indication is that the defendants are not able to adequately protect HNH’s interests. (*See, e.g.*, Cmplt. ¶¶ 70-71, Answers<sup>3</sup> ¶¶ 70-71.)

*Fourth*, HNH’s application is timely. At this juncture, this matter is in its infancy. Plaintiffs filed their Complaint on August 10, 2022, and the defendants filed their Answers on September 28, 2022. It is HNH’s understanding that the parties have not yet engaged in any

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<sup>1</sup> “Plaintiffs” refers to Michael Akerman, Georgina B. Asante, Yaw Asante, Daniel Bellin, Rena Donin Schluskel, Yaron Hirschhorn, Rachel Kaye, Ashira Loike, Alan Rubinstein, David Schluskel, Marc Schluskel, and Shorana Schluskel, collectively.

<sup>2</sup> A true copy of the Complaint is attached as **Exhibit A** to the accompanying Certification of Michael C. Klauder, Esq. (“Klauder Cert.”).

<sup>3</sup> A true copy of the defendants’ Answers is attached as **Exhibit B and Exhibit C** to the Klauder Cert.

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discovery or taken any significant actions with respect to this matter. Permitting HNH to intervene at this point would not cause any delay or otherwise prejudice any of the other parties whatsoever.

Finally, it is significant to note that this Court previously granted HNH's motion to intervene in the other action commenced by Plaintiffs entitled Akerman, et al. v. Township of Teaneck, et al., BER-L-2234-22 (the "First Action"). (See Klauder Cert., Exhs. E and F.) As Plaintiffs acknowledge in their Complaint, the First Action seeks to invalidate Ord. 9-2022 (the predecessor Ordinance) based on many of the same allegations contained in the Complaint. (Cmplt. ¶ 4-5, 101-104.) The Court in the First Action found that good cause exists to permit HNH to intervene and it should likewise find good cause exists here to permit HNH to intervene, as the actions are nearly identical (but for the addition of allegations of subsequent conduct).

## **2. Alternatively, HNH Should Be Permitted To Intervene Pursuant To Rule 4:33-2.**

Even if the Court were to find HNH does not satisfy the requirements warranting intervention as of right under Rule 4:33-1, the Court should nevertheless permit HNH to intervene under Rule 4:33-2. As made clear in the comments to the New Jersey Court Rules:

The factors to be considered by the trial court in deciding an application for permissive intervention include promptness of the application, whether or not the granting thereof will eliminate the probability of subsequent litigation, and the extent to which the grant thereof may further complicate litigation which is already complex.

[Pressler and Verniero, Current N.J. Court Rules, cmt. 1 on R. 4:33-2 (2022).]

As detailed above, HNH's application to intervene is prompt and will not result in undue delay or prejudice. Moreover, allowing HNH to intervene will promote resolution of any and all disputes relating to the challenged ordinances and property interests implicated by same. As detailed above, HNH owns or controls all the real property within the subject area and, therefore, its inclusion in this matter will ensure that all necessary and interested parties are involved. Further, HNH's participation will not cause unnecessary complications in this litigation. It will simply allow HNH to protect its interests and defend against Plaintiffs' inaccurate allegations and accusations or wrongdoing by HNH. Accordingly, the Court (to the extent it does not permit HNH to intervene as of right), should permit HNH to intervene pursuant to Rule 4:33-2.

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**CONCLUSION**

For all the foregoing reasons and authorities, and the liberal view to be afforded such applications, HNH respectfully requests that its motion to intervene be granted in its entirety.

Respectfully submitted,

*/s/ Michael C. Klauder*

Michael C. Klauder

MCK

cc: All Counsel of Record (via eCourts)